Questions on Jurisprudence



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Publisher: Hydery Canada Ltd

بسم الله الرحمن الرحیم

Questions on Jurisprudence

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:Published in print

Hydery Canada Ltd

:Digital Publisher

Ghaemiyeh center of computerized researches

Contents

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BOOk ID

Author(s): Abdul Husayn Sharafuddin al-Musawi

Translator(s): Liyakatali Takim

Publisher(s): Hydery Canada Ltd

Category: Islamic Laws

Topic Tags: Laws Practices Prayers Wudhu Shiism Miscellaneous information: Published by

Hydery Canada Ltd

,Howden Road ۷۶

Scarborough, Ontario, Canada M۱R ۳E۴

ISBN ۰ ۹۶۹۸۱۹۴ ۲ ۰

First Published ۱۹۹۶

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Masa'il FiqhiyyaExplanations of laws and practices specific to Shi'ism, including .combining of prayers, saying the basmala, mut'a, and method of wudhu

Translator's Introduction

I was first introduced to the Masa'il Fiqhiyya when I was a student in Qumm, Iran. Sayyid 'Ali Asgher Milani, the grandson of the late Ayatullah Milani, gave me a copy of the book, and urged me to translate it so as "...to let the world know the truth of the ".Twelver Shi'i practices

When I read the book, I was impressed by the author's erudite and academic

approach. Although he was dealing with very delicate and sensitive issues regarding Muslim liturgies, he approached them in a non-polemical, non-rhetorical and non-provocative manner. I was also impressed by his copious citations of his sources, in .virtually every issue he dealt with

I decided to translate this book as it deals with questions on ritual issues which Muslims frequently ask about. I believe that both Muslim, and non-Muslim scholars of Islam will benefit immensely from the translation of this work especially as many of .them are not aware of the genesis of the Twelver Shi'i practices

Translating a text on Islamic jurisprudence is fraught with difficulties. I have remained as faithful as possible to the original

Arabic version. However, where necessary, I have used square brackets to insert words in a sentence so as to elaborate through paraphrase. The normal brackets .have been used to translate, or, explain Arabic terms

The translation of this work would not have been possible without the help by many people. I am indebted to Sayyid Fadhil Milani, Sayyid Muhammad Hussein Jalali, and .Dr. Mahmud Ayoub for their help in dealing with some difficult parts of the text

Shaheen Lakhani helped by typing the parts of the text. Hasanain Kara was instrumental in designing the cover of the book. Taha Jaffer and Tehsin Takim both .made invaluable contributions towards compiling the final text

In the end, I am indebted to my wife, Fatima, and our two children for their sacrifices so that I could devote time to the translation. Needless to say, I am entirely .responsible for any errors that may have occurred in this work

Liyakatali Takim

.Toronto, Canada

May ١٩٩۶

Dhu'l Hijja ١۴١۶

About the Author

Sayyid 'Abd al-Husayn Sharaf al-Din al-Musawi was born in Kadhimiyya, Iraq, in the .year ١٢٩٠ A.H./١٨٧٢ A.D. He left Lebanon to pursue his studies in Iraq at the age of ١٧

Sayyid Sharaf al-Din attained the level of ‘ijtihad’ (independent reasoning on legal issues) at the age of ٣٢ in the year ١٣٢٢ A.H., returning to his home in Jabal 'Amil after having been away for fifteen years. He based himself in the city of Sur, and became .known to his people in a short period of time

Later, the highest ranking religious authority in Lebanon, Sayyid 'Ali al-Amin, .(authorized him to issue 'fatawa' (juridical rulings

In addition to his engagement in social work in Sur, and Jabal 'Amil, Sayyid Sharaf al-Din continued his efforts writing and publishing his works. Also, he struggled for the unity of the Muslims all the while. In the year ۱۳۲۷ A.H. he published al-Fusul al-Muhimah fi Ta'lif al-Ummah, a book which emphasized the necessity for the Muslims to unite. In this text, he addressed the disputes, and differences between the Shi'is, .and the Sunnis

In ۱۳۳۱ A.H., he had the opportunity to implement his views on Muslim unity. He visited Egypt and met Shaykh Salim al-Bishri, the head of al-Azhar University. The outcome of their discussions, and long deliberation was the book 'al-Muraja'at', which is highly recognized and circulated in the Muslim world, having been translated into twenty .languages

Al-Muraja'at is one of the best known books in Islamic studies due to its objective .approach, depth, concise language, and the indisputable rationality of its arguments

One of the steps he took to unite the Muslim umma was choosing the ۱۲th of Rabi' al-Awal to celebrate the birthday of the Prophet Muhammad rather than ۱۷th of Rabi' al-Awal. He deliberately chose this date because it was the one recognized by the Sunni Muslims [as opposed to Shi'is celeberating on ۱۷th Rabi' al-Awal], and he wished to bring all the Muslims, Shi'is and Sunnis, closer to each other. After observing this event in his

mosque, Sayyid Sharaf al-Din al-Musawi went to the Sunni's congregation to .celebrate this occasion with them

.Sayyid Sharaf al-Din al-Musawi died in the year ١٣٧٧ A.H or ١٩٥٧ A.D

Chapter One: Combining The Two Prayers

In the Name of Allah, the most Merciful, the most Kind

Noteworthy is that there is no difference amongst all the Islamic schools of thought, the ahl al-qibla, in allowing the combination of the two obligatory prayers; al-zuhr and al-`asr, at `Arafa [ground which is included in the rites of 'Hajj' (the Pilgrimage to Mecca, Saudi Arabia)] at the time of the noon (al-zuhr) prayer. Technically, this is [called] 'jam' al-taqdim' (the preceding combination). Similarly, there is no difference between them in allowing the combination of the two obligatory [prayers] - al-maghrib and al-`isha' - at al-Muzdalifa [another ground near Mecca, Saudi Arabia] at .[the time of the `isha' [prayers

Technically, this is called 'jam' al-ta'khir' (the delayed combination). There is no difference [amongst the scholars] in preferring these two combinations. Indeed, they are amongst the prophetic practices. However, they (the scholars) have differed as to .the permissibility of combining the prayers in daily performances

The point of disagreement here is the permissibility of combining two [individually performable] obligatory prayers by performing them together at the time stipulated for one of them either by bringing it forward (taqdiman) as at `Arafa, or, by delaying it [until the time stipulated for the later prayer] (ta'khiran) as done at al-Muzdalifa [for .[al-maghrib and al-isha prayers respectively

The Imams [twelve] from the family of

Muhammad (S) have declared that this is permissible at all times although it is better to separate them [prayers]. Their followers (Shi`as) have followed them in this [ruling] at all times and places. Most of the time, they combine al-zuhr and al-`asr, and al-maghrib and al-`isha' [prayers], whether they are traveling, are at home, or, they have an excuse [to combine], and without no excuse at all. 'Jam' al-taqdim' and 'jam' al-ta'khir' are equally valid for them [at all times].

As for the School of Hanafis [jurisprudence], they have prohibited the combination [of prayers] absolutely, with exception being at `Arafa and al-Muzdalifa. [This is] despite the presence of numerous clear sahih (authentic traditions) which allow the combination, especially when traveling. However, despite the clear [traditions], they (the School of Hanafis) interpreted them to refer to an unintentional combination (al-jam' al-suri). The invalidity of this [view] will become clear to you soon, God willing.

As for the School of Shafi`is, Malikis and Hanbalis (three differing jurisprudence respectively), they have allowed it (the combination) when travelling although there are differences between them. Otherwise, they are not allowed to combine except for [genuine] excuses; for example, when there is rain, soil, sickness and fear. There are also differences between them on the conditions which consider traveling as a legitimate requisite to combine chronologically separated prayers.

Our proofs, for the issue whether the chronologically separated prayers could be combined, or, not, rely on between us, and our God, the Almighty, as well as other

issues on the authentic [traditions] from our Imams (twelve, utmost chaste, males from the progeny of the Prophet Muhammad A.S.), peace be upon them. We shall argue with the masses (jumhur) by referring to their authentic traditions since they clearly point to what we claim. For our sake of discussion, the sufficient proofs are [provided by] the two Shaykhs have reported in the Sahihs (the reporters of Prophet's sayings' recorded). We present to you what [Sahih] Muslim (one of the reporters) has :narrated in his 'Sahih' in the chapter on the combination of prayers at home. He says

Yahya b. Yahya reported: `I read from Malik from b. Abu al-Zubayr from Sa`id b. " Jubayr from Ibn `Abbas [who] said: `The Prophet of God (S) prayed the zuhr and `asr prayers together and [he also offered] the maghrib and `isha' prayers together even "'.though there was neither any fear, nor was he traveling

Muslim said: "And, Abu Bakr b. Abi Shayba narrated to us that Sufyan b. `Uyayna reported from `Amr b. Dinar from Abu Sha`sha' Jabir b. Zayd from Ibn `Abbas who said: `I prayed with the Prophet (S) the eight ['rakahs'(standings)] (of prayer) together and the seven [standings] together.' `Amr b. Dinar said: `I said: `O Abu Sha`sha' I think he delayed the zuhr and hastened [to pray] the `asr and he delayed the maghrib and hastened [to pray] the `isha'.' He (Abu Sha`sha') said: `I think so too.'" I (the author) say: "They only follow [their] conjectures, and

".the conjecture does not lead to the truth

Muslim said: "Abu al-Rabi`i al-Zahrani said that Hammad b. Zayd reported from `Amr b. Dinar from Jabir b. Zayd from Ibn `Abbas: `Indeed the Prophet of God (S) prayed in Medina the seven, and eight cycles, the zuhr and `asr and the maghrib and the `isha' "'.[[together

He (Muslim) said: "And, Abu al-Rabi`i al-Zahrani told me that Hammad narrated to us from al-Zubayr b. al-Kharit from `Abd Allah b. Shaqiq who said: `One day Ibn `Abbas delivered a sermon to us after the `asr [prayer] until the sun had set, and the stars had begun to appear. The people started to say: `The prayer! The prayer!.' He said: `A man from the Banu Tamim, who was not smiling or inclined [in stature], came to him (Ibn `Abbas) and said: `The prayer! the prayer!.' Ibn `Abbas said: `Do you teach me the sunna O one who has no mother?' Then he said: `I saw the Prophet of God (S) combine the zuhr and `asr and the maghrib and `isha'.' `Abd Allah b. Shaqiq said: `Something about that bothered me, so I came to Abu Hurayra, and I asked him "'.about it and he verified his statement

Muslim said: "And Ibn Abi 'Umar told us that Waqi' reported that `Imran b. Hudayr reported from `Abd Allah b. Shaqiq al-`Uqayli that a man said to Ibn `Abbas: `The prayer!', then he kept quiet. Then he said: `The prayer!' then he kept quiet. Then he :said

The prayer!' and he kept quiet. Ibn `Abbas said: `You have no mother! Do you teach` us about the prayer, we used to combine the two prayers in the time of the Prophet of "'.(God (S

I (the author) say: Al-Nasai narrated from `Amr b. Harm from Abu Sha`sha' that Ibn `Abbas prayed the zuhr and `asr in Basra without any interval between them. He did .(that as he was busy, he reported it from the Prophet (S

Muslim said that Ahmad b. Yunus and `Awn b. Salaam both told us from Zuhayr. Ibn Yunus said that Zuhayr narrated that Abu al-Zubayr reported from Sa`id b. Jubayr from Ibn `Abbas who said: "The Prophet of God (S), prayed the zuhr and `asr together in Medina when there was neither fear, nor, [was he] travelling." Abu al-Zubayr said: "I asked Sa`id: `Why did he do that?' He replied: `I asked Ibn `Abbas just as you have asked me. He said: `He did not wish to impose any difficulty on "'.anyone in his community

Muslim said: "And Abu Bakr b. Abu Shayba and Abu Karib reported to us, they said: `Abu Mu'awiya, Abu Karib and Abu Sa`id al-Ashaj said (and the words are of Abu Karib) that they (Abu Karib and Abu Sa'id) said that Waqi' and Abu Mu`awiya said, both of them [reporting] from al-A`mash from Habib b. Abu Thabit from Sa'id b. Jubayr from Ibn `Abbas who said: `The Prophet of God (S) combined the zuhr and `asr and the

maghrib and `isha' [prayers] in Medina even though there was neither fear, nor, rain.'"

He (Muslim) said: "In the tradition of Waqi`i he said: `I asked Ibn `Abbas: `Why did he do that'? He said: `So that he should not [impose a] burden on his community.'" And, [according to] the hadith of Abu Mu`awiya, Ibn `Abbas was asked: "What did he intend by that?" He said: "He did not wish to impose difficulty on his community."

Muslim said: "Yahya b. Habib al-Harithi said that Khalid b. al-Hirth said that Qurra b. Khalid said that Abu al-Zubayr told us that Sa`id b. Jubayr reported that Ibn `Abbas said: `Indeed the Prophet of God (S) combined the prayers when on a journey, and during the undertaking in the battle of Tabuk, he combined the zuhr and `asr and the maghrib and `isha.'" Sa`id said: `I asked Ibn `Abbas: `What made him do that?' He replied: `He did not wish to burden his umma.'"

Muslim said: "Yahya b. Habib said that Khalid b. al-Hirth told us that Qurra b. Khalid narrated that Abu al-Zubayr said that `Amir b. Wa'ila Abu al-Tufayl reported that Mu`adh b. Jabal said: `In the battle of Tabuk, the Prophet of God (S) combined the zuhr and `asr and the maghrib and `isha' [prayers].' He said: `I asked: `What made him do that?' He (Mu'adh) said: `He did not wish to burden his community.'"

I (the author) say: These authentic traditions are clear to the reason for the legislation

of combining [the prayers]. All of these [indicate] give respite to the community, so as not to burden it with separating [the prayers], [thereby] having mercy on the diligent ones who [comprise] are most of the people. The last two traditions; the hadith of Mu`adh and the one before it, are not restricted to the specific situation (I mean traveling) since the reason for combining [the prayer] in them (the two traditions) is .general

It is not the journey per se, nor, for sickness, rain, soil, and fear. Rather it is a general [ruling] which can be applied in any specific case. So, it is not restricted to it; but, it is applicable to all occasions. Due to that you see that Imam Muslim did not mention the [last] two traditions in the chapter on "combining [the prayer] when traveling," since .(they are not restricted to it (traveling

Rather, he cited the traditions in the chapter on the "combination [of prayer] when at home" so that they can be a proof for the permissibility of combining [the prayers] at .all times. This is based upon his understanding, knowledge, and judgement

Muslim's 'sahih hadiths' on this issue, and those which you have heard, and not heard are all according to the conditions stipulated by al-Bukhari. The transmitters in their 'isnads' (the chain of custody) have all been used by al-Bukhari in his 'Sahih'; so, I wonder what prevented al-Bukhari from mentioning all of them (the traditions) in his 'Sahih'? What

led him to reduce them to a negligible portion? Why did he not append a chapter in his ?book on the combination [of prayer] when at home, or, while traveling

Given the abundant 'sahih hadiths' according to the conditions stipulated by him which are available on the combination [of prayers] and given that, on the whole, most of the Imams (twelve, utmost chaste, males from the progeny of the Prophet Muhammad A.S.) do accept it (the combination of prayers), why did he select those traditions on combining which have the least [impact] in pointing to it (the combination of prayer)? Why did he (al-Bukhari) insert them in a chapter which could alter its (intended) meaning? I consider al-Bukhari above, and exclude him from being like those who alter words from their intended meanings, or, like those who hide the truth .even though they may know it

I present to you what he has selected on this topic and has inserted at an improper place. He says in the chapter on the delaying of the zuhr prayer until the [time of] `asr in the book of the timings of prayers in his Sahih: "Abu Nu`man narrated to us that Hammad b. Zayd told him from `Amr b. Dinar who reported from Jabir b. Zayd on the authority of Ibn `Abbas who said: `The Prophet (S) prayed in Medina the seven and eight [standings] of the zuhr and `asr and the maghrib and `isha.' Ayyub said: `Perhaps it was a

.rainy night.' He said: `Maybe.'" I (the author) say: they only follow conjectures

He (al-Bukhari) also reported in the chapter on the time of the maghrib from Adam: He said: "Shu`ba told us: ``Amr b. Dinar reported: `I heard Jabir b. Zayd reporting from Ibn `Abbas who said: `The Prophet (S) prayed the seven [standings] together, "'.and the eight [standings] together

And, he reported with an incomplete chain of transmission (arsala) in the chapter on remembering the `isha' and darkness from Ibn `Umar, Abu Ayyub and Ibn `Abbas that the Prophet (S) prayed the maghrib and `isha' [one after another without significant time lapse between the two prayers], that is he combined them at the time .of one of them at the expense of the other

This is a very small portion from a large number of authentic traditions on the combination [of prayers] which are sufficient to prove what we maintain, as is obvious. This is supported by what [is reported] from Ibn Mas`ud when he said: "The Prophet (S) conjoined the two prayers, in Medina, the zuhr and `asr, and the maghrib and `isha', and this [fact] was mentioned to him. He (the Prophet) said: "I did this so that .my umma should not be burdened." Al-Tabrani has reported this

It is reported from `Abd Allah b. `Umar when it was said to him: "Did you not see the Prophet (S) conjoined the zuhr and `asr and the maghrib and `isha' prayers whilst he ,[was staying [in town

not travelling?" He replied saying: "He did that so as not to impose a burden on his ".community

In short, there are, among all the `ulama' of the masses, those who say that it is permissible to conjoin the prayers, and those who negate it; they ratify the authenticity of these traditions, and their apparent inference. This is what we say, that it is allowed [to conjoin the prayer] in all cases. Refer, if you wish, to what they .have appended to it so that it may be clear to you

Yes, they have interpreted the traditions in accordance with their (biased perspective) schools of thought. They were bemused by their interpretation, like one who is in the total darkness of the night. It is sufficient for you to note what al-Nawawi has related from them in his comment on these traditions in his commentary on the Sahih of Muslim. He says, after considering the apparent meaning in [the traditions on] combining [the prayers] at home: "The `ulama' have [differing] interpretations and ."views on this, some of them interpreted the combination [of prayer] due to rain

He said): "This is the famous [opinion] from the prominent erstwhile scholars (al-kibar) al-mutaqaddimun)." (Al-Nawawi said): "It (the opinion of the `ulama') is weak due to the second narration (riwaya) from Ibn `Abbas [which states the Prophet prayed together] without fear, or, rain." (Al-Nawawi said): "Some of them have interpreted that it was due to cloudiness, and that he (the Prophet) prayed the zuhr

then the clouds cleared, and it became apparent to him that the time for the `asr ".prayer had set in so he offered it at that time

He said): "This is also not valid for [although] it may be remotely possible for the) [prayers of] zuhr and `asr, it is not possible [for the clouds to have covered the sun to have occurred] at the [time of] maghrib and `isha'." (Al-Nawawi said): "Among them are those who have interpreted it as referring to the delaying of the first [prayer] to it's latest time for offering it so he offered it at the last [possible] time, and when he had finished it (al-zuhr) the time for al-`asr had entered so he offered it at that time; ".hence, the combination of the two prayers was not intended

He said): "This is a weak [argument] too, or, it is invalid as it is completely opposite to) that which is apparent, it is not possible [to admit it]." (Al-Nawawi said): "The act of Ibn `Abbas when delivering a sermon and the fact that people called out to him 'the prayer! the prayer!' and he (Ibn Abbas) was not paying heed to them, his deriving proof from a hadith to justify his act of delaying the maghrib to the time of `isha' and his combining them at the time of the second [prayer] (`isha') and Abu Hurayra's verification of him and his (Ibn Abbas') not disapproving it is clear in refuting this ".interpretation

:I say

Ibn `Abd al-Barr and al-Khattabi and others have refuted him, saying that the combination is a dispensation (rukhsa). If it (the combination) is not intended, it would be most difficult to undertake every prayer at its [specified] time since the beginning, and end of the [prayer] times are things which many specialists are not aware of, let alone the general masses. (They said): "Amongst the proofs that the combination is a dispensation is the saying of Ibn `Abbas: `He did not wish to impose a burden on his '".community

They said): "Also, the clear reports on the combination of two mandatory [prayers] is) only to undertake them together at the time [assigned] for one of them rather than the other [offering at two separate times], either by bringing forward (al-taqdim) the second one (prayer) from its appointed time and offering it with the first one at it's time, or, by delaying the first one (prayer) from it's appointed time to the time of the second one, and offering them together at that time." (They said): "This is what immediately comes to mind by the general usage of the word combining (al-jam`) in ".all the sunna, and this is the point of dispute

Al-Nawawi said): "Amongst them are those who have interpreted [the traditions]) claiming that the combination was due to an excuse, like sickness, or, something like it in meaning." (He said): "This is the view of Ahmad b. Hanbal, and the Qadi Husayn amongst our companions. Al-Khattabi, al-Mutawalli and

al-Ruwyani from our companions have [also] chosen it, and this is the chosen ".interpretation as it is the apparent [meaning] of the traditions

I say: There is no apparent [meaning] in the traditions, and no remote proof for it, it is an arbitrary judgement as al-Qastalani in his commentary on the 'Sahih of al-Bukhari' .has admitted

Some of the eminent scholars have followed it up by saying: "It has been stated that the combination [of prayers] was due to illness," al-Nawawi has supported this view. However, there is an objection to it since if the [prayers] were combined for illness then only those who were ill would have prayed with him (the Prophet). It is apparent that he (S) combined [the prayers] with his companions, this is what Ibn `Abbas .clearly announced in a tradition which has been established from him

I say: When the authentic traditions on combining [the prayers] do not have an interpretation which the `ulama [uniformly] accept, a group of the masses have reverted to a position which is close to our opinion on the issue though they did not [even] intend to do so. Al-Nawawi mentioned them after [citing their] false interpretations as you have read. He further states: "A group of the Imams have allowed the combining of prayers when at home for a need if one does not become .(habituated to it (the combination of prayers

This is the view of Ibn Sirrin and Ashhab amongst the companions of Malik. Al-Khattabi has reported

it from al-Qaffal al-Shashi al-Kabir from the companions of al-Shafi`i, and from Ibn Ishaq al-Maruzi and from a group of hadith transmitters. Ibn al-Munzir has [also] chosen this opinion." Al-Nawawi [further] said: "This view is supported by the apparent [meaning] of Ibn `Abbas' saying: `He did not wish to burden his community', he was not afflicted by sickness, or, by anything else, and God knows this matter ".best

More than one of their prominent scholars has stated this conjecture. Perhaps in this era, their researchers are in agreement with our views, as more than one of them has told me. However, they do not dare to openly declare that to the public. Perhaps caution prevents them [from doing that]. There is no difference of opinion on separating the prayer, it is better [to separate] as opposed to combining where there is a difference of opinion. However, it has escaped their notice that separating [the prayers] could lead to many busy people [as in the life today in many societies] abandoning the prayer as we have sometimes seen, whereas combining [the prayers] .is the best [solution] to ensuring they are performed

Therefore, it is more prudent for the jurists to issue a juridical verdict to the people to combine [the prayers] and they should make things easy, not difficult, for Allah wishes ease not hardship for you. He (Allah S.W.T.) has not made religion a burden for you. ,The proof that combining [the prayers] is permissible at all times is available

thanks to God (Allah S.W.T.), it is a correct sunna, enunciated as you have read. .Rather, it is a clear, written and fixed prescription

Do not be inattentive, I will relate to you the clear [verses] so that it will become clear that the times of the obligatory prayers are only three: the time of the two obligatory prayers, al-zuhr and al- `asr, which are shared between them, and time of the two obligatory prayers al-maghrib and al-`isha' which are also shared between them and .the third is the obligatory morning prayer especially fixed; so hear it and remain silent

Undertake the prayer at the time of the declining sun to the darkness of the night and .(the morning recitation; for indeed the morning recitation is witnessed (١٧:٧٨

Imam Razi has said about it's interpretation in the chapter of Isra' (chapter ١٧) page ۴٢٨ in the fifth volume of his Tafsir al-Kabir: "If we interpret the ghasaq (darkness) as being the time when darkness first appears then the [term] ghasaq refers to the beginning of al-maghrib. On this basis, three timings are mentioned in the verse: "the ".time of noon, the time of the beginning of al-maghrib and the time of al-fajr

Al-Razi said): "This requires that noon be the time of al-zuhr and al-`asr, this time is) shared between these two prayers. The time of the beginning of al-maghrib is the time for al-maghrib and al-`isha' so this time is also shared between these two prayers." (He said): "This requires

allowing the combining between al-zuhr and al- `asr and between al-maghrib and al-`isha' at all times." (Al-Razi said): "However, there is proof to indicate whether combining [the prayer] while at home without any excuse is prohibited. This leads [to the view] that the combining be allowed when traveling, or, [when there is] rain etc."

I say: We have examined the discussion on what he has mentioned concerning the proofs that combining [the prayer] whilst home without any excuse is not allowed and we have not found, God is our witness, a trace, or, relic for it. Yes, the Prophet (S) used to combine [the prayer] when he had an excuse just as he used to combine when there was no excuse so that his community would not be burdened.

There is no dispute that the separation [of prayer] is better therefore the Prophet of God (S) would prefer it except when there was an excuse as was his habit in all the recommended [practices], peace be upon him and his family.

Chapter Two: Is The Basmala A Qur'anic Verse? Is It To Be Recited In The Prayer?

point

The opinions of the Muslims who emphasize personal opinions (ahl al-ra'y) have differed on this. Malik and al-Awza`i have said that the verse is not a part of the Qur'an and have unanimously forbidden its recitation in the obligatory [prayers] whether it be at the beginning of 'surah' (a section of Holy Quran) al-Hamd, or, the 'surah' after it, or, whether it (the prayer) is recited loudly, or, silently. Yes, they have allowed it's recitation in the supererogatory

.non-obligatory) prayers)

As for Abu Hanifa, al-Thawri and their followers, they recited it at the beginning of the mother of the Qur`an (surah al-fatiha); but, they made it compulsory to recite it silently even when the prayers are recited loudly. This shows their agreement with Malik and al-Awza`i; maybe it proves that since we do not know the reason for reciting it silently in the prayers recited loudly except if it (the basmala) is not a part of .the mother of the book

But, al-Shafi`i recited it (the basmala) loudly in the loud prayers, and in the silent prayers he recited it silently. He counted it as a verse in the opening [chapter] of the book. This is [also] the opinion of Ahmad b. Hanbal, Abu Thawr and Abu `Ubayd. Differing reports have been reported from al-Shafi`i as to whether it is a verse in every chapter except for surah al-Bara'a (chapter ٩), or, whether it is not a verse except for the mother of the book. Both reports have been transmitted from him. But, the researchers amongst his companions have agreed that the basmala is a part of all the chapters. They have interpreted away the two sayings reported from their Imam, .al-Shafi`i

As for us, the Imami (Shi'i) community, we have agreed, in following the teachings of the Imams of guidance from the family of the Prophethood, that it is a complete verse in the sab' al-mathani (the seven most repeated verses) and of every chapter in the

great Qur`an except for [the chapter of] Surah al-Bara'a (chapter ٩) and that one who omits it intentionally in the prayer, his prayer becomes invalid whether it be an .obligatory, or, recommended (non-obligatory) prayer

We have also agreed that] it is essential to recite it loudly when the prayer is offered] loudly, and it is recommended to recite it loudly in the silent prayers, and it is part of a verse of surah al-Naml (chapter ٢٧). The textual proofs of our Imams in all of this are overwhelming and it's meaning successively transmitted .The contents are clear to refute their opposition to it (the basmala) like the saying of Imam Abu 'Abd Allah al-Sadiq, peace be upon him, "What is it with them? They depend on the greatest verse in the book of God, the Almighty, the most Glorious, and they claim it is an innovation if ".they declare `In the name of God the most merciful, the most beneficent' openly

Our argument is based on the path of the masses, and its authentic traditions which :are many

First: What has been established from Ibn Jurayj from his father from Sa`id b. Jubayr from Ibn `Abbas on the saying of the most High: "We have given you the seven most repeated verses." He said: "The opening [chapter] of the book, in the name of God most beneficent, most compassionate; Praise be to the Lord of the Universe and he :recited the chapter." Ibn Jurayj said: "I said to my father

Did Sa'id tell you from Ibn `Abbas that he said: `In the name of God most merciful,` most beneficent' is a verse?' He replied: `Yes.'" This hadith has been reported by al-Hakim in his al-Mustadrak and al-Dhahabi in his al-Talkhis; they have both declared .that its chain of transmission (isnad) is intact

Second: What has been correctly reported from Ibn `Abbas. He said: "When Gabriel used to come to the Prophet (S), and would recite `In the name of God most merciful, ".[most beneficent' he would know that it was a chapter [to be revealed

Third: What has also been correctly reported from Ibn `Abbas who said: "The Prophet did not use to know the end of a chapter until `In the name of God most merciful, ".most beneficent' was revealed

Fourth: What has also been correctly reported from him: "The Muslims did not know the end of a chapter until `In the name of God most merciful, most beneficent' was revealed. When `In the name of God most merciful, most beneficent' was revealed ".they realized that the chapter had ended

Fifth: What has been correctly reported from Umm Salama: She said: "The Prophet (S) used to recite `In the name of God most merciful, most beneficent, Praise be to God the Lord of the Universe' to the end of the chapter, he would recite it word by word." It is also reported from Umm Salama by another chain that she said: "Indeed the Prophet of God (S) would recite

in the prayer `In the name of God most merciful, most beneficent' and would count it as a verse. Praise be to God, the Lord of the Universe [would be] two verses, the most beneficent, most merciful, three verses, the master of the day of judgement, the fourth, You alone do we worship and from You alone we seek help, and he gathered ".five fingers

Sixth: What has been correctly reported from Na'im al-Mijmar. He said: "I was behind Abu Hurayra, and he recited `In the name of God most merciful, most beneficent' that he recited the mother of the Qur'an until he reached ‘and amongst those who have gone astray', and he said: `amin' and the people said: `amin' When he recited the greetings (salam) he said: `By Him in whose hand is my soul, I am portraying the "'.(prayer of the Prophet of God (S

Also, from Abu Hurayra who said: "The Prophet of God (S) would recite `In the name ".of God most merciful, most beneficent' loudly in the prayer

Seven: What has been correctly reported from Anas b. Malik: He said: "Mu`awiya led the prayer in Medina, he recited it loudly, and he recited in it `In the name of God most merciful, most beneficent' at the beginning of the mother of the Qur'an; but, he did not recite `In the name of God most merciful, most beneficent' for the sura after it until he completed that recitation. When he recited the salam, the Muhajirun and

Ansar who had heard [the recitation] yelled from all sides: `O Mu`awiya, did you steal '?[something] from the prayer, or, did you forget

After that, whenever he prayed, he would recite 'In the name of God most merciful, most beneficent' in the sura after the mother of the Qur'an.'" This hadith has been reported by al-Hakim in his al-Mustadrak and has met the conditions stipulated by [Sahih] Muslim. More than one author of the Musnad works have reported it like Imam al-Shafi`i in his Musnad. He added his comments to it which are interesting for us to cite. He said: "Mu'awiya was a ruler of great power, and might. If the loud recitation of the tasmiya (basmala) had not been established amongst all the Muhajirun and Ansar companions, they would not have been able to exhibit their disapproval when he ".omitted the tasmiya

We have a comment on this tradition which every researcher should take note of: One who examines this hadith will find proofs in it for our rulings on reciting the basmala and on not allowing the division of the surah which is recited in the prayer after the mother of the Qur'an since there was no reason for their refuting it except based on .our ruling on the two issues

Eight: What has been correctly reported from Anas and from another chain of transmission: He (Anas) said: "I heard the Prophet (S) reciting in the prayer 'In the "'.name of God most merciful, most beneficent' loudly

:Ninth

What has been correctly reported from Muhammad b. al-Sirri al-`Asqalani: He said: "I prayed behind al-Mu`tamir b. Sulayman the morning and evening prayers an amount which I cannot [even] count; he used to recite 'In the name of God most merciful, most beneficent' loudly before the opening [chapter] of the book and after it [at the opening] of the surah. I heard al-Mu`tamir saying: `I will not desist from following the '.prayer of my father

And, my father said: `I will not desist from following the prayer of Anas b. Malik.' And, Anas said: `I will not desist from following the prayer of the Prophet of God (S).'" I figure from this and other traditions that they used to recite, after the mother of the book (surah al-Fatiha), the complete surah [starting] with the basmala upto its end, as .is our ruling, and is proven by many [other] traditions

From al-Qatada: He said: "Anas b. Malik was asked: `How was the recitation of the Prophet of God (S)'? He replied: `It was elongated, then he recited `In the name of God most merciful, most beneficent', and he elongated the rahman, he [also] "'.elongated the rahim

From Hamid al-Tawil from Anas b. Malik, he said: "I prayed behind the Prophet (S) and behind Abu Bakr, `Umar, `Uthman and `Ali (as); and, all of them would recite 'In the ".name of God most merciful, most beneficent' loudly

All these traditions, and those before them have been reported by the leader of the

muhaddithun (hadith reporters) Abu `Abd Allah Muhammad b. `Abd Allah al-Hakim al-Nisaburi in his al-Mustadrak. He says at the end [of these traditions] "I have cited this tradition as a testimony to what preceded it. These traditions, which we have cited, are opposed to the tradition of Qatada from whom our Imams report, and the words are from Anas. He said: "I prayed behind the Prophet (S), and behind Abu Bakr, `Umar and `Uthman, and I did not hear any of them recite 'In the name of God most merciful, most beneficent'".

Al-Hakim then said: "This chapter has [traditions] from the Commander of the faithful, `Uthman and `Ali (as), Talha, Ibn `Ubayd Allah, Jabir b. `Abd Allah, `Abd Allah b. `Umar, al-Hakam b. 'Umayr al-Thamali, al-Nu`man b. Bashir, Samura b. Jundab, Burayda al-Aslami and `A'isha, the daughter of the truthful one (may God be pleased with them) all of them are reports I have in a chapter which I have left out for the sake of brevity; I have abridged from them what is germane to this chapter. Similarly, I have mentioned [them] in the chapter on the companions, the successors, and their followers (may God be pleased with them) who recite 'In the name of God most merciful, most beneficent' loudly."

I say: Al-Razi mentions in his Tafsir al-Kabir that al-Bayhaqi narrated [traditions] on reciting 'In the name of God most merciful, most beneficent' loudly in his Sunan from `Umar b. al-Khattab, Ibn `Abbas, Ibn `Umar and Ibn al-Zubayr.

Then al-Razi says in these words: "As for `Ali b. Abu Talib's (may God be pleased with him) reciting the tasmiya loudly, this has been established by mutawatir [traditions], one who follows `Ali b. Abu Talib in his religion is properly guided." (Al-Razi said): "The proof of it is the saying of the Prophet of God (S): ‘O God let the truth revolve where Ali goes'".

Sufficient for our proof that the basmala is a Qur'anic verse at the beginning of every chapter except for al-Bara'a is the fact that since the coming of the Qur'an to this day all the companions, the successors, and all the followers and the followers of their followers in all the generations of this umma are agreed on this by a consensus which they implement by writing the basmala at the opening of every chapter except for al-Bara'a.

They wrote it (the basmala) just as they wrote all the other verses without any distinctive mark [distinguishing it] even though they all agreed that they would not write anything but the Qur'an in it. Otherwise [they would have] a clear distinctive mark [separating it from the Qur'an] thus ensuring that nothing which is not a part of it (the Qur'an) could be mixed with it.

Do you not see how they separated from it (the Qur'an) the names of its chapters, and the symbols of its thirtieth (ajza') and sixtieth part and its quarters, fifths, tenth parts? They put these outside the chapters in such

a way that it can be known that they are outside the Qur'an, thus preserving it and .being cautious of it

Maybe you are aware that the umma is hardly united on an issue as completely as it is united on this. This in itself is a proof that 'In the name of God most merciful, most beneficent' is an independent verse at the beginning of every chapter, the previous, and later generation have written it at its beginning, thanks be to God for [showing] .[the correct [way

Also, amongst the famous transmissions of the Prophet of God (S) is his saying: "Every matter of importance which does not begin with 'In the name of God most merciful, most beneficent' will fail and every important matter which doesn't begin with ` In the ".name of God most merciful, most beneficent' is incomplete, or, deficient

It is well known that the Qur'an is the best that Allah has revealed to His Last Prophet (S) and [other books to his preceding] Messengers and that every chapter in it is important and great. Allah (S.W.T.) has challenged human beings in it but they failed to bring forth something like it. Is it then possible for the Qur'an to be incomplete? God is most HIGH and His wise criterion (the Qur'an) is most great, His chapters are above .all of that completely

Prayer is [the path to] success, it is the best act as is recited from the highest minarets ,and pulpits, those in deserts

and cities know this. Nothing can equal, or, compare with it (the prayer) after faith in God, the most High, and in His books, and Messengers, and the last day. Is it allowable for God, the most High, to legislate it incomplete and deficient? No pious, or, corrupt person will dare say this but the pious Imams Malik and al-Awza`i and Abu Hanifa, may God be pleased with them, were negligent of this obligation. Every one who strives to derive rulings from the shari'a proofs is excused, and rewarded whether he .is right, or, he errs

The Argument of our Opponents on the Issue

:They have argued in [several] ways

One: If the basmala was a verse of surah al-fatiha, it would mean the repetition of the [words] "most merciful, most compassionate" in the surah al-fatiha (since they also occur in the surah al-fatiha). Moreover, if it (the basmala) was a part of every chapter, .this would mean it would be repeated in the Qur'an ۱۱۳ times

The answer to the above argument: Circumstances may require due to the great importance of the issue, and to accentuate it. There is a lot of this [type of repetition] in the wise book. It is sufficient for you [to note] the chapters of al-Rahman (۵۵), al-Mursalat (۷۷) and al-Kafirun (۱۰۹). What is more important in this world and the hereafter, and deserves more stress, and consideration than the name of God most ?beneficent, most compassionate

Were the Prophets sent, and angels descended, and heavenly books revealed except by the name

of God (Allah) most beneficent, most compassionate? Guidance is by HIM, the most High and Glorious. Were the heavens and earth and those who live in them established except by the name of God most beneficent, most compassionate? "O human beings, remember the blessings of God upon you, is there a creator apart from God, who sustains you from the heavens and earth, there is no god but Him, so "?[how come you fabricate [things

Second: What has been reported from Abu Hurayra as a marfu`u tradition from the Prophet, who said: "God the most High says: `I apportioned the prayer between ME, and MY slave into two halves. When the slave says: `Praise be to the Lord of the Universe', the most High says: `MY slave has praised Me.' And, when he (worshipper) says: `The most merciful, beneficent', God the most High says: `MY slave has lauded me.' And, when he (worshipper) says: `The master of the day of judgement', God the most High says: `My slave has glorified ME.' And, when he says: `I worship YOU alone and from YOU I seek help', God the most High says: `This is between ME and MY slave.'" The reason for it being used as proof is that "In the name of God most merciful, most beneficent" is not mentioned amongst the verses of the surah al-.fatiha. If it was a verse, the tradition would have mentioned it

,The answer: This is contrary to the narration of Ibn `Abbas, also attributed

with an incomplete chain of transmission, to the Prophet (A.S) in which it is stated: "I have apportioned the prayer between ME and MY slave; when the slave says: `In the name of God most beneficent, most compassionate' God the most High states: `MY slave has invoked ME.'" The tradition is long; but, we see from it that it includes the basmala so the tradition of Abu Hurayra is refuted. Moreover, Abu Hurayra reported from the Prophet of God (S) that he recited 'In the name of God most merciful, most beneficent' loudly in the prayer. He (Abu Hurayra) would recite it loudly and would say: "I am showing you the prayer of the Prophet of God (S)." His two traditions on this .have been presented to you

Third: What has been reported from `A'isha: "The Prophet (S) would start the prayer with the takbir (glorifying God) and the recitation of `Praise be to God, the Lord of the Universe." There is no argument for them based on this [tradition] because `Praise be to God, the Lord of the Universe' has been made to be the name of this chapter just as you would say: "I recited: `Say! He is the One Lord'" and, so, and so recited 'WE have given you a clear victory' etc. So, the meaning of the hadith is that he (A.S) would begin the prayer with the takbir, and by the recitation of this surah the beginning of which is 'In the name of God

".most merciful, most beneficent"

Fourth: The tradition of Ibn Mughfil in which he states: "My father heard me when I was reciting `In the name of God most merciful, most beneficent', and he said: `O my son, be careful of innovation, for I have prayed behind the Prophet of God (S), Abu Bakr, `Umar and `Uthman, and I did not hear even one of them recite it."

The answer: The Imams of the [science of] wounding and authenticating (al-jarh wa'l-ta`dil) do not know of Ibn Mughfil, nor, is there any trace of his tradition amongst them. Ibn Rushd has mentioned him when discussing the basmala in his book Bidaya al-Mujtahid but he omitted [to mention] what has been reported from Abu `Umar b. `Abd al-Barr in the text that Ibn Mughfil is an unknown person.

Fifth: The report of Shu`ba from Qatada from Anas b. Malik. He said: "I prayed with the Prophet of God (S), Abu Bakr, `Umar and `Uthman and I did not hear anyone of them recite 'In the name of God most merciful, most beneficent.'" Similar to this is the hadith of Hamid al-Tawil, also reported from Anas. He said: "I stood behind Abu Bakr, `Umar and `Uthman and not one of them would recite 'In the name of God most merciful, most beneficent'."

The answer: You have read our arguments on what has been correctly reported from Anas. It contradicts these two reports, so examine what we have mentioned before. Imam al-Razi has mentioned this

report of Anas in the argument with his opponents. Then he says: "The answer to this .is from several dimensions

Firstly, Shaykh Abu Hamid al-Asfarayani says: Six reports have been reported from Anas on this topic. As for the Hanafis, they have reported three narrations from him one of which states: “I prayed behind the Prophet of God (S), and behind Abu Bakr, `Umar and `Uthman and they would start the prayer with ‘Praise be to God, the Lord of the Universe.'” The second one states: `They did not use to recite ‘In the name of .'God most merciful, most beneficent

And, the third one states: `I did not hear any one of them recite `In the name of God most merciful, most beneficent.'" These three narrations are in agreement with the view of the Hanafis. He (al-Asfarayani) said: "Another three [reports] contradict these [three reports]. The first one is his (Anas') report that when Mu`awiya omitted ‘In the name of God most merciful, most beneficent' in the prayer, the Muhajirun and Ansar rebuked him and this shows that [reciting] the basmala loudly was like a common ".practice, well established amongst them

And, he said: "The second of them (the report) is reported by Abu Qalaba from Anas that the Prophet of God (S), peace be upon him and his family, and Abu Bakr and `Umar would recite ‘In the name of God most merciful, most beneficent' loudly", and the third of them (the reports) says that he (Anas) was

asked about [reciting] ‘In the name of God most merciful, most beneficent’ loudly, and persisting in it and he said: "I do not know this issue." Al-Razi said: "It is clear that the reports from Anas on this issue are greatly confused, and haphazard; they are contradictory, so it is essential to refer to all the other proofs."

Imam al-Razi says: "Also, there is another accusation in this that `Ali (as) would recite the tasmiya with a loud pronunciation. When the Banu Umayya came to power they went to extreme lengths in prohibiting the loud recitation [of the basmala], striving to obliterate the memories of `Ali (as), peace be upon him." Al-Razi said: "Perhaps Anas was scared of them (the Umayyads) so for this reason his verdicts were confused."

And, he said: "Whenever we are uncertain of something, [one thing] we do not doubt is that when there is a contradiction between the likes of Anas, and Ibn Mughfil, and the verdict of `Ali b. Abu Talib, peace be upon him, who remained [on the verdict] all his life, it is more appropriate to accept the saying of `Ali." He said: "This is the decisive answer to the question." Then al-Razi said: "One who takes `Ali (as) as the Imam of his religion has surely clung firmly to his religion and his self." I say: Thanks be to God who has guided us to this, but for His guidance we would not have been guided.

Recitation (of Surah Al-Fatiha) in the Prayer

The jurists have differed

on [the question of] the recitation [of the surah al-fatiha] in the prayer. Abu Bakr al-Asam, Isma'il b. `Aliyya, Sufyan b. `Uyayna and al-Hasan b. Salih have claimed that it .is not obligatory in any prayer. It is merely recommended

This is a rare verdict; it is contrary to the proofs, and goes against the consensus of the community. They have argued based on what Abu Salama, and Muhammad b. `Ali have reported from `Umar b. al-Khattab when he prayed the maghrib prayer without reciting [the surah al-fatiha] in it. He was asked about that and he said: "How was the bowing (ruku') and the prostration?" They said: "It was fine." He said: "Then there is ".no problem

The answer: If he (`Umar) did not attribute it [to the Prophet (S)] then it was his opinion. Perhaps he was amongst those who believed that omitting the recitation .unintentionally does not invalidate the prayer, and God knows best

Al-Hasan al-Basri and others have stated that the recitation is obligatory in one cycle [of prayer]. Like the previous case, this is a rare verdict and goes against the consensus reached by the ‘ummah’ (society). They have argued based on his (S) saying: "There is no prayer except with the surah al-fatiha of the book" adhering [to the view] that an exception to a negative [statement] is a positive one, so they say that even if one surah al-fatiha is recited in the prayer it is essential to maintain that this is correct

"'.due to the rule based on [the concept of] 'exception

The answer: According to the custom (`urf), this hadith is not applicable to the case of the prayer when it is offered with the [complete] surah al-fatiha neither is the hadith a specific rule which nullifies a general rule. It is by no means applicable in this case. The tradition is applicable for the prayer which is devoid of the surah al-fatiha, and in that case it (the prayer) is not a [valid] prayer. It is like his (S) saying: "There is no prayer ".except by purification

This shows] his stressing the surah al-fatiha for it is a part of the prayer and] [stressing] the purification for it is a condition for it (the prayer). There are many [examples] of this [kind of] speech. Don't you see, if it was said "there is no oxymel except with vinegar," for example, no one would understand that what is called vinegar, even if it be a drop, or, less than that, is sufficient, or, not sufficient [to make oxymel]. They merely understand that oxymel is composed [of things] and that vinegar is one of the most important parts of it. If the vinegar is removed then the .oxymel is nonexistent

If, as they claim, the proof they derive from this hadith is proper, then the proof could lead [to the view] that no act or speech in the prayer is obligatory as long as the surah al-fatiha is recited, as is clear

.to one who examines it

Imam Abu Hanifa and his companions said: "It is not obligatory to recite the surah al-fatiha itself in any prayer, what is essential in the prayers is any [form] of recitation. Abu Hanifa saw it sufficient to recite any Qur'anic verse even if it be just one word like "Madhamatani" (two green gardens). But, his two companions Abu Yusuf and Muhammad b. al-Hasan al-Shaybani deemed it sufficient [to recite] three short verses like "thumma nazara" then "'abasa wa basara" then "adbara wa istakbara", or, [it was sufficient to recite] one verse which was equivalent to three short verses, or, .more than them. The Hanafis have acted according to this

Abu Hanifa also allowed the translation of what is recited in the prayer from the Qur'an in any foreign language even if one knows Arabic well. He deemed it sufficient to recite "do balk sabz" the translation of madhamatani (two green gardens) in Persian instead of the surah al-fatiha, and the surah, but his two companions allowed the translation only for those unable [to recite] it in Arabic, not for those able to recite .it in Arabic; the Hanafis have acted according to this

The recitation [of surah al-fatiha] is obligatory for them in the first two cycles in every prayer of two cycles like the Friday, and morning prayers, or, the zuhr and `asr and `isha' for a traveler. As for the prayer of more than two cycles, like the maghrib and `isha' for one

praying at home, and the zuhr and `asr, the recitation is obligatory for them in [any] unspecified two cycles. Thus one praying can choose to recite it in the first two cycles, or, the last two, or, the first and the third cycles, or, the first and the fourth, or, the second and the third cycles, or, the second and the fourth. If he recites [surah al-fatiha] it in the first two cycles, for example, he can choose in the last two; if he wishes, he can recite [the surah al-fatiha], or, he can glorify God (Allah S.W.T.), or, if he wishes, he can remain silent spanning the time of the glorification. This is their [Hanafi] .school of thought which is common to their jurisprudence

They have argued that any form of recitation is sufficient based on the hadith of Abu Hurayra which is present in the two Sahihs (two Books of Hadiths – sayings of Prophet Muhammad A.S. compiled by al-Bukhari and al-Muslim). He said: "The Prophet of God (S) entered the mosque. Then a man entered, and prayed. Then he came to greet the Prophet of God (S). After the Prophet of God (S) returned his greetings, he said to him: `Go back and pray, for you have not prayed.' The man went back and prayed the way he would [normally] pray then he came to the Prophet (S), he greeted him and the Prophet of God (S) said: "And peace be unto you, go back and pray

".for you have not prayed

And, he did this three times. The man said: "I swear by the one who has sent you with the truth, this has not pleased me, so teach me." He (Prophet A.S.) said: `When you stand up to pray, first glorify God, then recite what is easy for you from the Qur'an then bow down until you are at ease whilst bowing, then stand straight and then prostrate until you are at ease in prostration, then sit up until you are at ease whilst '".sitting, then do all that in your whole prayer

The point from which they derive their proof is his saying: "Then recite what is easy .for you from the Qur'an" as it apparently supports their claim

The answer: Abu Hurayra is amongst those whose traditions we (Shi'i) do not value as we have explained at length [elsewhere]. We have presented rational, and scriptural indubitable proofs in a published book(۱) which we have devoted to him, so any one .who is fond of researching the clear truths should refer to it

It is not possible for the Prophet of God (S) to have acted according to this tradition as it occurs in a situation in which it was essential [for him A.S.] to explicate the issue. We examined [the tradition], and we did not find a trace of explanation which is worthy of the Prophets (S); since, it lacks much of what the 'ummah' have concurred of what is essential in prayer

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۱- The author refers to "Abu Hurayra", published in English by ANsariyan Pubblications and also available on line at: http://www.al-islam.org/abu-hurayra-abdul-husayn-sharafiddin-al-musawi [۱۱] [D.I.L.P.]

like the intention, and sitting when bearing the last testimony, and the essential parts of prayer following each other in proper sequence; similarly, the last testimony, and sending greetings to the Prophet (S), and the greetings etc. Moreover, leaving him to offer an incorrect prayer three times is [something which] does not concur with the .(character of the Prophet (S), this [act] is not permissible for him (S

Abu Dawud has reported this anecdote in his Sunan in the chapter on the prayers of one whose backbone cannot be straight in the bowing and prostration, with a chain of transmission to Rifa`a b. Rafi' al-Ansari, He was amongst those present at Badr that the Prophet (S) said to the man whose prayer was not proper. "When you stand up and face the qibla, and glorify God (Allah S.W.T.), then recite the mother of the Qur'an ".(Surah al-fatiha), and recite what Allah (S.W.T.) wishes you to recite

This anecdote is also reported by Ahmad b. Hanbal and Ibn Hibban with a chain of transmission ending with Rifa`a b. Rafi`i. It states that the Prophet (S) said to that man whose prayer was improper: "Then recite the mother of the book [surah al-".fatiha] and then recite what you wish

It is well known that Abu Hurayra cannot be compared with Rifa`a, neither is he equal to Rifa`a in his speech, or, action. Without doubt, when the two are in conflict, Rifa`a's traditions are to be given preference over the traditions of Abu

Hurayra. Therefore, you see that in Fath al-Bari, al-Qastalani interprets what is reported in the hadith of Abu Hurayra to accord with what is reported in the hadith of .Rifa`a

One who studies the views of the past, and later [scholars] on the hadith of Abu Hurayra and his saying: "Recite what is easy for you from the Qur'an" will find all of them (apart from the Hanafis) either refuting, or, interpreting it. If you wish, refer to .their views on this hadith of Abu Hurayra in all the commentaries on the two Sahihs

Moreover, Abu Hurayra himself contradicted this hadith of his by what has been correctly reported from him when he said: "I heard the Prophet (S) say: `The prayer in which the opening [chapter] of the book is not recited is not complete.'" And, he (S) [also] said: "Indeed, the Prophet of God (S) commanded me to go out, and announce in Medina that there can be no prayer without the recitation of the Qur'an, even if it be with the opening [chapter] of the book, or, more [than that]." And, he said: "I heard the Prophet of God (S) say: `One who prays without reciting the [surah al-] fatiha of the "'book then it (the prayer) is incomplete, it is incomplete, it is incomplete

There is another outstanding issue which they ask about. I mean the reason why the Hanafi jurists accepted the apparent [meaning] in the hadith of Abu Hurayra: "Recite what is easy for

you from the Qur'an." [They did this] without [quoting] the clear text, that is, it is essential to be calm when standing, sitting, whilst bowing and in prostration. Moreover, what they accept is against the clear 'sahih' traditions, and opposed to [the views of] most of the Muslims. What they did not accept is supported by the 'Sihah' .and by the masses

Perhaps the Hanafis can cite as proof for their view on this issue by [citing] the saying ".of Almighty Allah (S.W.T.): "Recite what is easy for you in the Qur'an

The answer: This verse is certainly not connected with what is being discussed concerning the recitation in the prayer. This is clear from the context in surah al-Muzammil (chapter ٧٣), whosoever so wishes, let him refer to it and examine what the .commentators have said about it so that the truth may become clear for him

Furthermore, the [School of] Hanafis have argued for the permissibility of translating into foreign languages what is recited in the prayer from the Qur'an by several :arguments

That Ibn Mas`ud made some foreigners recite: "The tree of Zaqqum is a food for (١ the sinners (ta'am al-athim)." A foreigner recited it as the food for the orphans (ta'am al-yatim). He (Ibn Mas`ud) said to him: "Say the food of the corrupt one (ta'am al-fajir)." Then he (Ibn Mas`ud) said to him: "It is not a mistake to recite in the Qur'an al-hakim instead of al-alim, to insert a verse of mercy in

".the place of a verse of chastisement

Answer: This is not connected to that we discuss, it doesn't prove anything to what the claimant is claiming. Even if it is correct, the view of Ibn Mas`ud is restricted to him, it .does not prove anything

Two: The saying of the Almighty: "It is in the previous books," similarly: "This is in the ".previous scriptures, the scriptures of Abraham, and Moses

The reason for deriving proofs by these verses is that the community agreed that the recitation was not in Arabic letters in previous books, nor, were the scriptures of .Abraham and Moses in Arabic; rather, they were in Hebrew, or, Aramaic

Answer: This, like the previous case, does not constitute proof for the claimant, .[rather, it is further remote [from the truth

Third: The Almighty said: "And, He revealed this Qur'an to me so that I may warn you thereby." The non-Arabs do not understand the Arabic letters unless the meaning is .mentioned to them in their language so that they may be warned by it

Answer: This would only be proper proof for allowing the commentary of the Qur'an in their language so that they may benefit from its wisdom, etiquettes, commands and prohibitions. This is one thing; [while to talk] gibberish in the prayer in which one is .commanded to recite the Qur'an, is another issue

When the surah al-fatiha is recited, to what Arab, or, non-Arab do the letters of the [mother of the book, [which are

recorded in the scriptures, not come into his mind? What person of taste would negate the enunciation of the recitation of the surah al-fatiha, and the recitation of ?the Qur'an for gibberish in Persian, or, other foreign eastern, or, western languages

Imam al-Razi has refuted these views, for he has transmitted them from the [School of] Hanafis, and has other views, so refer to them. I hold Imam Abu Hanifa above this, he failed completely in his derivation of proofs. I feel sorry for him that he fell to this low level. In deriving secondary shar'i rulings, he depended on analogy and seeking that which is good (istihsan). He arrived at the decision based on this basis of personal .views

As if he deemed it to be in the interests of non-Arabs to translate for them the recitation in the prayer in their languages; he saw this to be the best [way] for their understanding its meaning and for their humility in it (the prayer). It is as if he drew an analogy of the recitation [of the surah al-fatiha] of a non-Arab in his language with .listening to an exhortation and his hearing academic lessons in his language

This is the theory of Ataturk regarding the prayer which he did not take it from Abu Hanifa. It is merely a personal thought. What helped Ataturk in holding the theory is that he did not respect shar'i proofs, he did not know, or, learn them in the reforms that appeared

good for him to undertake. If there was in the shar'i proofs something which would allow him to have recourse to [personal choice of good] ‘istihsan’, there would have !been some justification for his views; but, how wrong he was

Al-Shafi`i, Malik, Ahmad b. Hanbal and others have made it compulsory to recite the surah al-fatiha in Arabic in all the cycles of the obligatory, and supererogatory prayers. Their proof for that is the hadith of Abu Hurayra in the anecdote of an Arab whose prayer was not proper due to the statement of the Prophet of God (S) whereby he taught him the prayer, and instructed him to recite [the surah al-fatiha], and then told him: "Do that in every [standings] prayer." You already know our view on this .tradition for we have said that we do not accord any value to it

The ‘Imamiyya’ (Shi’i), in following the Imams of the purified family, maintain that the recitation of the surah al-fatiha in correct Arabic is obligatory in the first two cycles in every obligatory, and recommended prayer, whether the prayer [is offered] alone, or, with the Imam. As for one following [in congregational prayer], the Imam recites on his behalf. As for the last two cycles, it is obligatory to recite either the surah al-fatiha, or, the tasbih (glorification), one can choose between the two. The Imam cannot .recite the surah al-fatiha, or, tasbih on behalf of those following him

Our proofs for all of this lies in

the traditions of our Imams, upon whom be peace, they are the other half of the book. Moreover, the recitation [of the surah al-fatiha] by the Prophet (S) in the first two cycles is proven in all the ‘Sihah’ and ‘Masanid’ works in the hadith of Abu Qatada al-Hirth b. Rab`I, and others.

The rule is, what the Prophet (S) used to do is obligatory due to his saying: "Pray as you see me pray." If it is proven from him that [he would recite] the surah al-fatiha in the last two cycles, it has also been proven from him that he would [also] recite the dhikr in them. The form [of the dhikr] "Glory be to Allah, praise be to Allah, there is no god but Allah, Allah is the greatest" has been transmitted from the Imams of his pure family.

This is attested to by the hadith of Sa`d b. Abi al-Waqqas available in the Sahih of al-Bukhari and other Sahih and Musnad works. The people of Kufa complained of him to `Umar to the point that they mentioned that he could not pray correctly. Sa`d said: "By God, I used to lead them in prayer the [way] of the Prophet of God (S), I did not distort it, I stand still and lengthen the standing by reciting the [surah al-] fatiha and the surah in the first two cycles.

Then I would reduce it in the last two cycles." That is, he hastened through them (the last

two cycles) by shortening them to either the tasbih, or, the [surah al-] fatiha alone to .[[the exclusion of] everything else, and the Almighty God knows [best

Takbirat al–Ihram

Following [the footsteps of] the Imams of the purified family, the 'Imamiyya' agree that the takbirat al-ihram is a pillar in ever obligatory, or, recommended [prayer]. Without it, no prayer can be offered. Its form, Allah is the greatest, is innate to it. So, if one begins his prayer by glorifying God (tasbih), or, by uttering there is no god, but God, or, by saying God is great (Allahu kabir), or, only God is the greatest (Allahu al-Akbar), or, God is most powerful etc., then the prayer is not valid. [Neither is] gibberish .[in any one of the foreign languages [allowed

The proof that it is obligatory is adequately provided [by the fact] that the Prophet of God (S) never started any of his prayers except by this form. You have read recently that the original [form] which he used to perform his (S) prayer is the obligatory [way] ".as he said: "Pray the way you see me pray

Moreover, its incumbency is established in the book, and the sunna, and the consensus of the community. The Almighty Allah has said: "And, Your Lord, so glorify Him." A consensus ('ijma') has been reached that this refers to the takbirat al-ihram since the command [of God] indicates incumbency. The 'ijma' also states that anything .other than that is not compulsory

The Prophet (S) has

said: "The opening of the prayer [lies in] purification, its sacredness (tahrim) in the takbirat, and its dissolution in the sending of greetings." Abu Dawud has narrated this in his Sunan. The [School of] Hanafis have said that the tahrim is not a pillar of the prayer, rather, it is connected to the act of standing which, in fact, is the pillar. It is obligatory to face the qibla, and to hide the private parts and to be in the state of purity not due to it (the takbirat al-ihram); but, because of its connection with the .pillar

They have [also] said that Arabic language is not a stipulation in it. They have deemed that a translation in any language which the one who offers the prayer wishes would suffice, whether he is able to recite it in Arabic, or, not. For them, the prayer can [also] be offered by saying, for example: Khuda buzurg (God is greatest in Persian) instead .of Allahu Akbar

They have [also] said that the ihram can be done by [reciting] the tasbih, or, tahlil (the utterance that there is no god but God), and by any name of the Almighty (Allah S.W.T.) even without anything else being added to it like starting [the prayer] by "Allah", or, "al-Rahman" or, [reciting] other such of His beautiful names by themselves, although this act is detested. This is their accord, and they agree on this. Their proof is based on 'istihsan' (doing that which is best) as

you have read. “The answer” is the answer, and Allah is the guide to that which is .correct

Chapter Three: The Taqsir of the Traveller and his Iftar

The Legislation of the Taqsir

The four cycles (individual standings ‘rakahs’) in a prayer are shortened to two when traveling whether [the one undertaking the journey] is in [a state of] fear, or, safety, or not, as per the consensus of the Muslim community. The ruling is unanimous. The :Almighty Allah (S.W.T.) says

When you travel on earth there is no blame on you if you shorten your prayer if you" .(are scared that those who disbelieve will trouble you" (۴:۱۰۱

On the authority of Ya'la b. Umayya: He said: "I said to `Umar b. al-Khattab: ‘There is no blame on you if you shorten the prayer if you fear that those who disbelieve will trouble you, but the people are [now] safe.' He (Umar) said: ‘I was wondering about that just as you are wondering so I asked the Prophet of God (S) about it. He (S) said: `It is a charity which Allah (S.W.T.) has granted you so accept it.'" Muslim has reported .[the hadith] in his Sahih

From Ibn `Umar (this has also been reported by Muslim in his Sahih): He said: "I accompanied the Prophet of God (S) on a journey. He did not pray more than two cycles until Allah took him away (death). And, I accompanied Abu Bakr and he did not pray more than two cycles until Allah took him away (death). And, I accompanied `Umar and he did

not pray more than two cycles until Allah took him away (death). Then, I accompanied `Uthman, and he did not pray more than two cycles until Allah took him away :(death)." The Almighty God has said

Indeed, there is an exemplary model for you in the [figure] of the Prophet of God."" ((۳۳:۲۱

From Anas b. Malik, according to what the two Shaykhs have reported in their Sahihs, he said: "We travelled from Medina to Mecca with the Prophet (S). He used to offer ".two cycles until we returned to Medina

From Ibn `Abbas, according to what al-Bukhari has reported in his Sahih, he said: "The Prophet (S) stayed in Mecca for ۱۹ [days] and he used to shorten [the prayer]." I say: He used to shorten even though he stayed for ۱۹ days as he had not made the .[intention to stay [for more than ۱۰ days

It has been proven from the Prophet of God (S) that he used to lead the people of Mecca in prayer after the emigration. In the prayer of four cycles, he would offer the greetings after finishing the first two cycles. He would tell the people to complete their four cycle prayer [alone], he excused himself, and those who had come with him since .they were travelers

Ibn Abi Shayba has narrated with a chain of authority from the Prophet of God (S) that he said: "The best of my community are those who bear witness that there is no god but

Allah and that Muhammad is the Prophet of God and those who, when good is done to them, they rejoice and when evil is done to them they forgive, and when they travel ".[they shorten [their prayers

From Anas: According to what Muslim has reported from two sources in his Sahih: He said: "I prayed the zuhr in four cycles in Medina with the Prophet of God (S), then I prayed two cycles of the `asr with him at Dhu'l-Hulayfa as a traveller." Many authentic traditions clearly indicate that Allah, the most Mighty and Glorious, has .legislated the taqsir when traveling

(The Legislation of 'Iftar' (breaking of the fast

There is no dispute that Allah, the Almighty and Glorious, legislated the iftar in the month of Ramadhan for anyone who travels [a distance] for which he had to shorten the prayer. This much the Muslim community has agreed upon (across the board of different schools of jurisprudence). The book (Holy Quran), and the 'sunnah' (modus :operandi of Prophet A.S.) have established it clearly. The Almighty Allah (S.W.T.) says

The month of Ramadhan is the one in which the Qur'an has been revealed as a guide" for the people, and an explanation of guidance, and the furqan (criterion); whoever amongst you who witnesses it (at home) should observe the fast. One who is sick or on a journey then [he will fast] a number of other days, Allah wishes ease for you, he (does not wish difficulty, so complete the prescribed days." (۲:۱۸۵

When the Prophet of God

S) travelled in the month of Ramadhan he would break the fast, and would tell the) people of his ‘iftar’. He would deem observing the fast when travelling to be a sin. He emphasized this by saying: "It is not virtuous that you fast when traveling," you will .read all of that by his (S) words

It is reported in the hadith of Abu Qalaba, and this is in the Sihah, that the Prophet (S) told a man from the Banu `Amir: "The Almighty Allah (S.W.T.) has lifted the [burden of] ".fasting from the traveler, and [the difficulty of] separating the prayers

One who studies the Sunan, and the sayings of the Imams about the prayer, and fast of a traveler will find documented sources, religious edicts and the consensus of the community [maintaining that], that the shortening of the prayer, and iftar when traveling have been legislated by Allah, the Almighty, in the religion of Islam. When traveling, what is required to be performed for one of the two (prayer and fast) is .necessarily required for the other, without doubt

(The Ruling of Shortening The Prayer (Qasr

point

The Imams (leader of congregational prayer) of the Muslim community have different views on the ruling of shortening the prayer when on a journey. Amongst them are those who see the qasr to be a fixed obligation on a traveler, this is the view of the ‘Imamis’ (Shi’i) in following their Imams. Abu Hanifa, and his companions, and all the Kufans have ruled likewise. Amongst them are those who

rule that the ‘qasr’ (shortened prayers) and ‘itmam’ (offering the full prayers) are both obligatory when on a journey although the traveler has a choice between the two like the choice in paying an obligatory expiation. Such is the view of some of the .companions of [School of] al-Shafi`i

Amongst them are those who have said that the ‘qasr’ is a highly recommended [act], this is the view of [School of] Malik according to the most famous reports from him. Amongst them are those who see the ‘qasr’ as a ‘rukhsa’ (deviation) and that the complete [prayer] is better. This is what [School of] al-Shafi`i ruled according to the most famous reports narrated from him. This is reflected in his companions. The [School of] Hanbalis have permitted the ‘qasr’ [prayers], it is better than the ‘itmam’ .although offering the full prayers is not detested

Our proofs

The Imamis (Shi’i) have argued that the ‘qasr’ is obligatory based on the ‘Sihah’ (authentic traditions) which have been related by the masses and [based on] proven texts from the Imams of guidance from the ‘Ahlul Bayt’ (Holy household of Prophet .A.S.), peace be upon them

Amongst the ‘Sihah’ of the masses is what Muslim has reported in his ‘Sahih’ in the book of the prayer of the travelers and shortening it, [reported] from Ibn `Abbas from two chains of transmission. He said: "Allah (S.w.T.) has fixed the prayer through the tongue of your Prophet (S), [when] in town at four cycles [‘rakahs’ –standings], and when

".[traveling at two [cycles

This clearly shows that the traveler has been commanded to offer the ‘zuhr’, ‘asr’ and ‘isha’ at two cycles [‘fajr’ (dawn) prayer and ‘magrib’ (sunset) prayer unaltered]. Similarly, one who is in his home town has been commanded to offer them at four .cycles

Therefore, it is not proper for a traveler that he should offer anything; but, two cycles according to what has been prescribed for him, just as it not proper for one living at his home town to offer anything; but, four cycles according to what has been fixed for .him since the true [form of] worship is to follow what has been prescribed

Similarly, it is reported in the ‘Sahih’ of Muslim narrating from Musa b. Salama al-Hadhli. He said: "I asked Ibn `Abbas: ‘How do I pray in Mecca when travelling?'" He ".(said: "Two cycles is the sunna of Abu'l-Qasim [Prophet Muhammad] (S

He answered categorically that it was two cycles, and that [it was] a sunnah of Abu'l-Qasim (S), this is clear in fixing the mode of the ‘qasr’, it is evident for the masses.

Sahih] Muslim has also narrated in his ‘Sahih’ reporting from al-Zuhri from `Urwa] from `A'isha: "The prayer was initially fixed at two cycles. The prayer of traveling remained [where it was], the prayer at home was fixed at tamam." Al-Zuhri said: "I said to `Urwa: `What has happened to `A'isha that she offers the complete prayer (when traveling?' He said: `She interpreted it (the matter

"'.as `Uthman did

Muslim has reported in his 'Sahih' from `A'isha from another chain of transmission. She said: "When Allah fixed the prayer He did so at two [cycles], then He prescribed the prayer at home at the complete rate (four cycles) whereas the prayer of traveling ".remained at the previous rate

I say: It is clear that if this is true, then it is not correct for a traveler to offer the four [cycles] since the lawgiver (al-Shari') has not commanded him to do so. From the beginning, He [Allah S.W.T.] has told him to offer it at two [cycles], and Allah (S.W.T.) has fixed it at that. If a traveler offers four cycles, he has innovated ['bid'a'] just as if he were to offer four cycles in the morning prayers, or, if one praying at home offers .his four cycles at the rate of two a piece

From the reports of the Imams of guidance (Ahl-al-bayt, progeny of Prophet), that has been correctly reported from Zurara b. A`yan and Muhammad b. Muslim when they asked Imam Abu Ja'far al-Baqir (as). They said: "What do you say regarding the prayer of a traveler? How is it offered, and how many cycles?" He said: "The Almighty Allah says: `When you travel on the earth there is no blame on you if you shorten your prayer.' so the 'qasr' is obligatory when traveling just as the tamam is obligatory at ".home

They said: "We said to him: `He (God) said: `There

is no blame on you if you shorten the prayer', He did not say `shorten the prayer' [not an order, but a choice is the point], so how can He make it compulsory just as He made the tamam compulsory?' He said: `Did the Almighty not say regarding the Safa and Marwa, one who performs the pilgrimage, or, the 'umra' there is no blame on him that he should walk between them,' don't you see that walking between them is obligatory, legislated, because Allah the Almighty has mentioned it in His book and His ?Prophet performed it

Similarly, the shortening [of prayers] on a journey is something which the Prophet of God (S) performed, and Allah has mentioned it in the book.'" They said: "One who offers four cycles when travelling, does he repeat the prayer, or, not?" He said: "If the verse of 'taqsir' has been recited and explained to him and he [still] offers four cycles then he repeats it. If it has not been recited to him and he does not know of it then he does not have to repeat the prayer." (He, peace be upon him, said): "Every obligatory prayer on a journey is of two cycles except the 'maghrib' for it has three cycles, there is no shortening of it, the Prophet (S) left it at three cycles [whether] on a journey or at ".home

Imam al-Tabarsi says after he mentioned this report: "In this there is proof to show that the obligation of

a traveler is different from one who is at home." (He said): "The group has agreed on that, and has also agreed that there is no 'qasr'. It has been reported from the "'.Prophet (S) that he said: `The obligation of a traveler is two cycles, not shortened

In al-Kashshaf, on the verse of shortening the prayer, the author writes: "Abu Hanifa says that the 'qasr' when traveling is fixed, it is not a dispensation, nothing apart from it is allowed." (He said): From `Umar b. al-Khattab: "The prayer of a traveler is at two ".cycles, it is complete, not shortened, according to the tongue of your Prophet

'The argument of School of Shafi'i and those who do not impose the 'qasr

They have argued by several ways; the first one being the apparent [meaning] of the Almighty's words: "There is no blame on you if you shorten the prayer." In itself, blameworthiness (which is a sin) indicates permissibility, not an obligation [to perform .['the 'qasr

You know the answer by the report of Imam Abu Ja'far al-Baqir (as), peace be upon him. Apparently the people at the time [of the Prophet (S)] were inclined towards [offering] the complete [prayer] and they were, as indicated by al-Zamakhshari in his al-Kashshaf, expecting to pray full. It appeared to them that they were at fault by praying the 'qasr'. The blame [for offering the 'qasr'] was removed from them so that .they could feel good about their [offering] the 'qasr' and they could be contented by it

Secondly: `Uthman and `A'isha used to complete the prayer

:when traveling

The answer is that they wrongly interpreted the proofs for [performing] the ‘qasr’. Some of the scholars of masses have explained this interpretation of theirs by claiming that `Uthman was the Commander of the faithful, and that `A'isha was their (the faithfuls') mother. Even in their journey they were continuously at home since wherever they were traveling they were with the people at home and in their land. This thinking is strange; we see the reason for it being strange by seeing the Prophet of God's (S) absence from the world of the believers. Did they not see him perform the ‘qasr’ whilst traveling? Similarly, on this basis Abu Bakr, Umar and Ali (as), were all .strangers to them

Thirdly: Famous traditions clearly reported by Muslim in his ‘Sahih’ that when the companions would travel with the Prophet of God (S) some of them would perform the ‘qasr’, some would do the ‘tamam’, some would fast in the month of Ramadhan, and .others would not, they would not find fault with each other

The answer is that these traditions do not prove anything based on our chain of transmission since they contradict our ‘sahih’ traditions reported from our Imams who are the second half of the book; furthermore, they contradict each other too, one .who examines them knows it as you will read soon, God willing

There is no doubt that the traditions of the trustees from the family of Muhammad (S) are to be given preference when

there is a contradiction, especially after they are supported by a group of the Sihah .[traditions] of the masses

(The Ruling on Breaking the Fast (Iftar

The Muslim jurists have differed on the ruling of 'iftar' whilst traveling. The masses have stated that it (fasting) is allowed, and that if a traveler fasts then his fast is valid, and he will be rewarded. They have deemed it permissible basing their proofs on .'traditions which Muslim has reported in his 'Sahih

Amongst them is what is reported from Abu Sa`id al-Khudri who said: "We went on an expedition with the Prophet of God (S) when sixteen days of the month of Ramadhan had elapsed. There were those amongst us who fasted, others who broke their fasts. Those who fasted did not taunt those who did not, nor, did those who broke their fasts ".find fault with those who had fasted

On his authority from another chain, he said: "We used to travel with the Prophet of God (S) in Ramadhan. The one who fasted would not be taunted for his fast, nor, was ".'one who did the 'iftar' [blamed] for his 'iftar

The answer is that these traditions, assuming they are authentic, are abrogated without doubt by the 'sahih' [traditions] reported by the masses, by other authentic traditions reported by our chains of authority from the Imams of the Ahlul Bayt, peace .be upon them

I present to you what has been authentically reported on this topic by others. Jabir b. `Abd Allah said, as stated in Muslim's

Sahih, that "the Prophet of God (S) went in the year of the conquest to Mecca in Ramadhan, and he fasted until he reached Kira' al-Ghamim, and the people [also] fasted. Then he asked for a glass of water, and he raised it until the people saw it then he drank it. After that it was said to him: `Some of the people have fasted'; he (S) said: "'.`They are sinners, they are sinners

It has also been reported from Jabir: He said: "The Prophet of God (S) was on a journey and he saw the people had gathered around a man, and had cast a shadow over him. He said: 'What is the matter with him?' They said: `He has fasted.' He said: "'.'It is not virtuous that you fast on a journey

We said that these 'sunnah' abrogated those [reported before] as they were, by the admission of the masses, issued later. That is proven by what has been reported in the 'Sahih' of Muslim and by others from `Ubayd Allah b. `Abd Allah b. `Utba from Ibn `Abbas that he informed him that the Prophet of God (S) went out in the year of the conquest and he fasted until he reached al-Kadid then he broke his fast. He said: "The companions of the Prophet of God (S) used to follow the most recent of his ".commands

On the authority of al-Zuhri, as reported in the 'Sahih' of Muslim and other sources, by the same 'isnad': "The

ruling] of breaking the fast was the later of the [two] commands, the later commands] ".of the Prophet of God are to be followed

A look at the similar narration on the authority of Ibn Shihab, as reported in the 'Sahih' of Muslim, and in other sources with the same 'isnad': Ibn Shihab said: "They used to follow the latest of his commands and would see it as an abrogating and a fixed [command]." In short, if it is assumed that it was correct for some of the companions to fast when traveling with him, that was before the imposition of [the ruling of] breaking the fast, and before his (S) saying: "It is not virtuous that you fast when you are traveling," and before his (S) saying about those fasting: "They are sinners, they ".are sinners

As for the Imamis (Shi'i), they are agreed that 'iftar' when traveling is compulsory, this is [also] the edict of Dawud b. `Ali al-Isfahani and his companions. Many companions like `Umar b. al-Khattab and his son `Abd Allah and `Abd Allah b. `Abbas, `Abd al-.[Rahman b. `Awf, Abu Hurayra and `Urwa b. al-Zubayr have followed [this ruling

This has also been successively transmitted from the Imams of guidance, from the pure family of Prophet Muhammad (S). It has been narrated that `Umar b. al-Khattab commanded a man who had fasted when traveling to repeat his fast, just as is our ruling and the ruling of Dawud. Yusuf b. al-Hakam has narrated saying: "I

".asked Ibn `Umar on fasting when travelling

He said: "How would you feel if you give a person [something] in charity then he returned it to you, wouldn't you be angry? This is a 'sadaqa' (charity) from Allah (S.W.T.) which He has granted you, so do not reject it." `Abd al-Rahman b. `Awf reported saying: "The Prophet of God (S) said: `One who fasts on a journey is like one "'.who has broken his fast when staying at his home town

On the authority of Ibn 'Abbas [who said]: "Iftar when traveling is compulsory." On the authority of Abu 'Abd Allah al-Sadiq (S) who said: "The one who fasts in the month of Ramadhan whilst traveling is like one who has broken his fast whilst at home." And [it is reported] from him (S) also: "If a man who is fasting on a journey dies then I would not pray over him." And, [it is reported] from him (S) also: "One who travels must break his fast and shorten the prayers unless his journey is a sin against Allah the ".Almighty, the most Glorious

Al-`Ayyashi has reported with a chain of transmission connected to Muhammad b. Muslim from Abu `Abd Allah al-Sadiq (S) who said: "This verse 'Whoever of you is sick or on a journey' was revealed at Kira'a al-Ghamim at the prayer [time] of the midday heat. The Prophet of God asked for a glass which contained water and he drank it and he commanded the people to

break their fasts. The people said: `The noon [time] has passed, if only we were to complete this day's [fast].' The Prophet of God (S) called them sinners and they were ".[called sinners up to the time when the Prophet of God (S) passed away [died

Our argument for the obligation of breaking the fast when traveling is sufficiently proved by the saying of the Almighty, most Glorious: "Those of you who witness the month of Ramadhan (at home) should fast, those who are sick, or, on a journey should fast a number of other days, God wishes ease for you, he does not wish difficulty." The verse contains proofs for the obligation to break the fast due to :several reasons

The command to fast in the verse is directed at those at home, not at those (۱ traveling. The words are as you see them: "Those of you who witness the month - that is when they are at home in the month, let them fast." Therefore, the traveler is not commanded, so his fast is [tantamount to] inserting in religion what is not a part of .['it, it is a burden and an innovation ['bid'a

What is understood from the saying of the Almighty: "Those of you who witness the (۲ month of fasting should observe the fast" means that one who is not at home in the month it is not obligatory for him to fast. That which is [ordinarily] understood from a conditional statement is binding

as has been established in 'usul al-fiqh' (principles of jurisprudence). Therefore, the verse indicates that it is not obligatory to fast when traveling by the literal, and implied .meaning of the text

The saying of the most Glorious, Almighty: "Those of you who are sick, or, travelling (۳ then [they should fast] a number of other days." This implies they should fast a number of other days. This applies if you recite the verse with the words "a number" in the nominative case. If you recite it in the accusative then it would [also] mean let him fast a number of other days. In both cases, the verse indicates the obligation to fast on other days and this requires the obligation to break the fast when traveling since there is no one who says it is necessary to keep both, the fast and recompense for the kept fast. Moreover combining [the two acts of keeping the fast while traveling .and keeping and extra fast on another day] refutes the ease indicated in the verse

The saying of the most High: "Allah wishes ease for you, He does not wish (۴ hardship." Ease here means 'iftar' just as hardship here means nothing else but to fast. Therefore the meaning of the verse is that God wishes you to break the fast, He .does not wish you to fast

The amount of traveling which necessitates the shortening of the prayer and :breaking of the fast

The Imams of the Muslims have differed

regarding its (traveling) duration. Abu Hanifa and his Kufan companions have stated: "The minimum for which the prayers have to be shortened and the fast to be broken is the journey of three days, and that the ‘qasr’ and ‘iftar’ are only for those who travel from a horizon to [a different] horizon."

[School of] Al-Shafi'i, Malik and Ahmad and many other people have stated: "The prayer is shortened, and the fast is broken in the month of Ramadhan by traveling a distance of ۱۶ farsakhs whilst going [away from home] only."

The people who depend on the apparent meaning of the Qur'an (ahl al-zahir) say: "The ‘qasr’ and ‘iftar’ are [obligatory] for every journey even if it be a short one." Ibn Rushd said in "On the prayer of traveling from the beginning and the end": "The reason for their differences is due to the difference between the meaning which is rationally understood from ‘al-taqsir’ and ‘al-iftar’ on a journey and the narrations [reported] on this topic. That is because what is [rationally] understood by the affects of a journey which necessitates the observation of ‘qasr’ and ‘iftar’ are the difficulties [involved] in it (the traveling).

If that is the matter, then they (‘taqsir’ and ‘iftar’) apply wherever there is any difficulty. For [School of] Abu Hanifa, there is no difficulty encountered except after having crossed three stations. For [School of] al-Shafi`i, Malik and Ahmad, it will be after traveling ۱۶ farsakh." He said: "As for those who pay

attention to the letter only like the Zahiris, they said: "The Prophet (S) said that Allah has removed the fasting and separating the prayer from the traveler. For whoever can be called a traveller it is permissible for him to observe the 'qasr' and 'iftar'." He (Ibn Rushd) said: "They are supported by what Muslim has narrated from `Umar b. al-Khattab that the Prophet (S) would shorten the prayer when he reached about ۱۷ ".miles

Based on this, the Imams of the four schools of law [Hanafi, Maliki, Shafi'I, and Hanbali], when defining the distance, did not depend on what has been narrated from the Prophet, or, on his acts (S). They depended on a philosophy to which they applied the term "what is rationally understood." That is not something which would please the Imams of the Ahlul Bayt. Nor, would the Imami's (Shi'i) be contented with it in the .derivation of juridical principles

The people of Mecca, in the times of the Prophet (S) and Abu Bakr and `Umar, when they traveled from Mecca to Arafa would shorten the prayer at Arafa, al-Muzdalifa, .and Mina. This is proven without doubt

The two Shaykhs have reported in their Sahihs that the Prophet (S), when he would leave Mecca to go to Arafa, would shorten the prayer, and that Abu Bakr and `Umar did likewise after him. [They also report] that Uthman also shortened his prayer. Then he performed the complete prayer after six years had passed of his Caliphate. The

.people objected to it

This is what Imam Malik [School of Maliki] depended upon in his ruling that the 'taqsir' of the pilgrims in these places is highly recommended whether they are the people of Mecca, or, distant places, so refer to the [School of] Maliki jurisprudence. This is what we depend on in shortening the prayer when traveling, the distance of ۸ 'farsakhs' whether it be prolonged in one direction, or, joined by four (farsakh) going and four coming back like the distance between Mecca and `Arafa. This is the minimum distance at which the Prophet of God (S) would shorten the prayer, and this is the .decisive proof, thanks be to God

Chapter Four: 'Mut'a', Temporary Marriage

The Essence of this Marriage

The essence of this type of marriage is that a woman who is completely free, a Muslim, or, from the people of the book [Bible, Torah, (New and Old Testaments respectively), and the Book of Prophet Daw'ud (David)???? I don't know if its only Bible???], marries you, provided there is no impediment of her marriage [to you] according to the religion of Islam, whether [this impediment be] due to kinship (prohibited to marry brother with sister), relationship (marry a mother or father), .through foster relationship (half-sister or half-brother is prohibited), or, marriage

She should not be in her waiting period ('idda) [two menstrual periods until a woman marries another man], nor, have other religious obstacles like her being married to one of your fathers even if he has divorced her, or, he died before the

.consummation of marriage, or, her being your sister in law for example, etc

This woman marries you with an agreed dowry for an agreed fixed time by performing an ‘aqd’ (intentional consent) encompassing the conditions which make it proper according to the shari`a, [thus] it has no shar`i impediments as you have read. So, she says to you after the mutual permission, and agreement between the two of you: "I marry you, or, perform ‘mut'a’ with you for a dowry whose amount shall be so much for one, or, two days, or, a month, or, two months, or, a year, or, two years"; for example, or, she mentions another precisely defined period, and you say to her ".immediately: "I accept

Like other contracts, deputyship is also allowed in this type of marriage from both parties. When completed, she becomes your wife and you become her husband until .the time period in the agreement expires

By its expiration, she is separated [from you] without a divorce. The husband has the right to separate from her before the expiration time by acquitting her [remaining part] of the specified period, not by a divorce according to the special texts governing over it. If the marriage is consummated (copulation), it is obligatory for her to observe the ‘idda’. She observes the ‘idda’ of two months if she menstruates after being granted the period, or, after its expiration. If she does not observe ‘idda’, [the idda] of ۴۵ days like a slave girl, according to

.the special proofs governing the case

If he acquits her [the remaining part] of the period, or, it expires before he touches her then, like one who is divorced before being touched, there is no ‘idda’ for her. [As for] those who become pregnant in a temporary marriage, their ‘idda’ period, like that of divorced women, is upto when they give birth (cannot marry until they deliver the baby). As for the ‘idda’ of one whose husband dies in a temporary marriage it is always the same as the ‘idda’ of a woman whose husband dies in a permanent .marriage

The child born in a ‘mut'a’, whether male, or, female, is joined to the father. He is claimed by him (the father) like other sons and daughters. He has the right to inherit as prescribed to us by Allah (S.W.T.), the most Majestic, by His saying: "Allah ".prescribes for your children the male should get the portion of two females

There is no difference between two children of yours, one of whom is born out of temporary marriage and the other out of a permanent one. All the shari'a principles [of inheritance] applicable to the children, the fathers and the mothers are [also] applicable to the children, and their fathers and mothers of a ‘mut'a’ marriage. Similarly, the principles are applicable to brothers and sisters, and their children, and the maternal uncles and aunts, and paternal uncles and aunts, and their children (and the people of the wombs take preference

.over each other in the book of God) always

Yes, the marriage of ‘mut'a’ in itself does not lead to inheritance between the spouses, nor, sharing the number of conjugal nights, or, expenditure for the wife. The husband has the right to isolate himself from her according to the special proofs .which are applicable to this matter of the rulings of wives

This is the essence, and truth of the marriage of ‘mut'a’ with women and this is the .point of dispute between us, and the masses

The Consensus of the Community on its Legislation

All the people of the ‘qibla’ [means following same qibla but different schools???] have reached a consensus, that the Almighty Allah (S.W.T.) legislated this type of marriage in the religion of Islam. There is no doubt about it amongst any of the scholars of the .Islamic schools regardless of the differences in their inclinations, schools, and views

Perhaps this is appended, for the scholars, to the essential teachings, according to what has been ascertained from the seal of the Prophets (S). None of the 'ulama’ of his community can deny it. What all the people of Islamic schools say in their ruling on this marriage (which has been established in their jurisprudence) is unfortunate. They know that they are all agreed on it being originally legislated, but they claim that it has .been abrogated as you will realize soon, God willing

Proof from the Book on its Legislation

It is sufficient for us to cite proof for its legislation the saying of the Almighty in :chapter four

And, what you"

".(enjoy from them then give them their prescribed dowries (۴:۲۴

The Imams from the Ahlul Bayt and their devoted friends have agreed that this verse was revealed concerning the marriage of ‘mut'a’. Abu Ibn Ka`b, Ibn `Abbas, Sa`id b. Jubayr and al-Sadi used to recite it as "whatever you enjoy of them to the agreed ".term

The companion [of the Prophet (S)] `Imran b. Husayn clearly stated that this verse was revealed concerning the ‘mut'a’ and that it was not abrogated until a man said according to his own views what he wished." Mujahid has also stated that the verse was revealed for the ‘mut'a’ according to what al-Tabari has reported from him in his .Tafsir al-Kabir

This is also attested to by the fact that the Almighty Allah, at the beginning of the :chapter, has clarified the ruling on the permanent marriage by His saying

(Marry what pleases you amongst the women, two, three, or, four" (۴:۳"

:then Allah said

".(Give the women their dowry as a gift (۴:۴"

If the verse [on mut`a] was also clarifying the permanent marriage, it would have meant repeating [the same ruling] in one chapter. But, if it was to explain the mut'a, .then it was explaining a new concept

The people of understanding who contemplate on the wise Qur'an know that the chapter on the women (chapter ۴) includes the explanation of all [types of] Islamic marriages, so the permanent marriage and the possession of the right hand are explained by the saying

:of the Almighty

And, marry what pleases you of the women, two, three, or, four, and if you fear that" you will not be able to deal justly with them, then one only, or, whatever your right (hand possesses."(۴:۳

:The marriage of the slave girl is clarified by the saying of the Almighty

And if it is not possible for any of you to marry the pure believing women, then marry" ",(the believing girls amongst those whom your right hand possesses (۴:۲۵

until He said

then marry them with the permission of their guardians and give them their dowries" (according to what is proper." (۴:۲۵

The 'mut'a' is explained by this verse

(And, what you enjoy from them then give them their dowries."(۴:۲۵"

'Its legislation according to the Text of the 'Sunnah

On this issue, sufficient proof from the 'sunnah' is provided for us by the authentic mutawatir traditions reported from the Imams of the pure family. The two Shaykhs, al-Bukhari and Muslim, have reported many authentic traditions on the legislation of this type of marriage from Salma b. al-Aqwa, Jabir b. `Abd Allah, `Abd Allah b. Mas`ud, Ibn `Abbas, Abu Dharr al-Ghaffari, `Imran b. Husayn, al-Aqwa b. `Abd Allah al-Aslami and Sabra b. Ma`bad. The traditions of all of these people are reported by Ahmad b. Hanbal in his Musnad. He also reported the hadith of `Umar and of his son, .`Abd Allah

Muslim, in the chapter on the 'mut'a' marriage, in the book of marriage, in the first volume of his 'Sahih' has reported from Jabir b. `Abd Allah and

Salma b. al-Aqwa, the two said: "The caller of the Prophet of God (S) came to us, and said: `The Prophet of God has permitted you to perform 'mut'a', that is the 'mut'a' with women.'" The authentic traditions of this purport are more than can be examined .in this treatise

Those Who Claim the Abrogation and their Proofs and a Discussion on it

The people of the four schools of thought and other jurists of the masses have claimed that this type of marriage has been abrogated and forbidden. They claim that there are traditions reported by the two Shaykhs in their 'Sahih' books; so, we examined them impartially and free from prejudices. In them we found [so many] contradictions concerning the time of the issuance of the abrogation that we cannot .(have confidence in it (the abrogation

Indeed some of them are clear that the abrogation was on the day of Khaybar, some claim that the abrogation was on the day of the conquest (of Mecca); some of them maintain that it occurred at the battle of Tabuk, while some claim that it happened at the time of the final pilgrimage. Some of them maintain it happened at the time of the 'umra al-Qaza' whilst some of them say it happened in the year of Awtas (battle of .(Hunayn

Moreover, these are opposed by what you will read from the Sihahs of al-Bukhari and Muslim which prove that there was no abrogation and that the prohibition and interdiction were issued by the second Caliph (Umar b. al-Khattab) due to an unforeseen act

.of `Amr b. Harith which occurred in his time

Before it, the companions were performing the ‘mut'a’ at the time of the two Caliphs, just as they were performing the ‘mut'a’ at the time of the Prophet of God (S). You will read the speech of `Imran b. Husayn, `Abd Allah b. Mas`ud, `Abd Allah b. `Umar, and `Abd Allah b. `Abbas and the Commander of the Faithful. You will see it clearly that the prohibition was not from the Almighty Allah (S.W.T.), nor, from His Prophet, peace .be upon him; rather, it was from `Umar

It is impossible that there would be an abrogation which [all] these people would be ignorant about. The status of their knowledge and position in front of Prophet of God (S), and their close attachment to him (S) are known. If there was an abrogation, .(those who were aware of it would have informed them of it (the abrogation

However, since no one opposed them in their attributing the prohibition to `Umar himself, we realize that they all acknowledged it, and they accepted that there was no .(abrogation from God, the Almighty, nor, from His Prophet (S

Moreover, the second Caliph himself did not claim abrogation [of the verse on ‘mut'a’], as you will read from his clear speech in his attributing the prohibition, and interdiction to himself. If there was an abrogating verse from the Almighty Lord, or, from His ,Prophet (S), he would have attributed the prohibition to the Almighty Lord, or

to the Prophet (S), that is the most effective [way] of preventing [accusations], and .most appropriate [thing] to mention

I believe that those who came after the time of the companions forged the traditions on abrogation to justify the opinion of the Caliph, for he interpreted the proofs and he prohibited and forbade [‘mut'a’] promising punishment, saying: "I am prohibiting the two ‘mut'as’ which were at the time of the Prophet of God (S), and will punish those ".who undertake them, the ‘mut'a’ of hajj and ‘mut'a’ of women

Amongst the strange claims of some later scholars is that the marriage of ‘mut'a’ has :been abrogated by the saying of the Almighty

As for those who guard their private parts except from their spouses, or, what their" ".(right hand possess (۲۳:۵

They claim that the woman with whom you do the ‘mut'a’ is not your spouse, nor, one whom your right hand possesses. They said: "As for their not being amongst whom your right hand possess, that [point] is certain; as for their not being your wives it is because there is no expenditure for them, nor, do they inherit; moreover, one does ".not have to spend a night with them

The answer: She is a legal wife contracted by a ‘shar`i’ marriage as you have read; the fact that there is no maintenance, nor, inheritance, nor, night to be spent is due to the special proofs which have been mentioned in the rulings of wives as we have explained

before. Furthermore, this is a Meccan verse which was revealed before the emigration as agreed by all; so, it is not possible for it to abrogate the verse which allows, and legalizes the ‘mut'a’ [revealed in] Medina after the emigration as agreed .by all

A surprising thing from these [people] who burden themselves is that they claim that the verse of believers (۲۳:۵) abrogates the ‘mut'a’ of women since they are not [considered to be] wives, nor, those whom the right hand possesses. We say to them: "Why does it [also] not abrogate the marriage of the slave girls to one who doesn't own them since they [also] are not considered wives of the one marrying them, nor, ?are they owned by them

They say at this point that the chapter of believers (chapter ۲۳) is Meccan and the marriage to the slave girls mentioned has been legislated by the saying of the :Almighty in the chapter of women which is Medinan

And, if it is not possible for any of you to marry the pure believing women, then marry" ;(amongst the believing girls whom your right hand possesses,"(۴:۲۵

so, the Meccan ‘surah’ cannot abrogate the Medinan as the abrogated verse must .come before the abrogating

They say this and they forget that the ‘mut'a’ was [also] legislated in Medina, and that its verse is in the chapter of women [Surah an-Nisa], also. We have been afflicted with a community which does not contemplate; from God we come and to

.him we shall return

Muslim has reported in the chapter of ‘mut'a of hajj’ and 'umra’ in his Sahih with a chain of authority to Abu Nazra who said: "Ibn `Abbas used to order the ‘mut'a’ and Ibn al-Zubayr used to forbid it." This was mentioned to Jabir, he said: "In my hands the tradition revolved, we used to perform the ‘mut'a’ while in company of the Prophet of God (S.A.W) and when `Umar became the Caliph he said: `Indeed, Allah used to make ‘halal’ for his Prophet what he wished as he wished. Complete the ‘hajj’ and 'umra’, and sever the marriage with these women; no man will come to me with a "'.marriage to a woman for a specific period except that I will stone him

This is what [School of] Ahmad b. Hanbal has reported about the tradition of `Umar in his Musnad. Reporting also from Abu Nazra, the words he uses are as follows: "Abu Nazra said: `I said to Jabir that Ibn al-Zubayr forbade the ‘mut'a’ while Ibn `Abbas used to command it.' He said to me: ‘The tradition has come from me, we used to .perform the ‘mut'a’ at the time of the Prophet of God (S), and Abu Bakr

When `Umar became the Caliph he delivered a sermon to the people saying: `The Qur'an is the Qur'an, and the Prophet of God is the Prophet, there were two mut'as at the time of the Prophet of God (S), one of them was the

"'.mut'a of hajj' and the other was the 'mut'a of women'

It is clear and evident that the prohibition came from him after his becoming Caliph. Similar to this is the tradition of `Ata' reported by Muslim in the chapter of the 'mut'a' marriage in his 'Sahih', he said: "Jabir b. `Abd Allah went for pilgrimage of 'mut'a' so we came to him at his house. A group of people asked him a few things, and they mentioned the mut'a to him. He said: `Yes, we performed the 'mut'a' at the time of "'.the Prophet of God (S), and Abu Bakr, and `Umar

According to the hadith of Abu al-Zubayr, as in the afore-mentioned chapter in the 'Sahih' of Muslim, he said: "I heard Jabir b. `Abd Allah saying: `We used to perform the 'mut'a' with a handful of dates and flour (as dowries) at the time of the Prophet of God (S), and Abu Bakr until `Umar prohibited it because of the matter of `Amr b. "'.Harith

Also, in the aforementioned chapter of the 'Sahih' of Muslim, he reported from Abu Nazra who said: "I was with Jabir and somebody came to him and he said: `Ibn `Abbas and Ibn al-Zubayr have differed regarding the two 'mut'as'.' Jabir said: `We used to perform them at the time of the Prophet of God (A.S), and then `Umar "'.forbade them

The statement of `Umar whilst he was on the minbar spread (to the masses). "I am prohibiting the two mut'as which

were at the time of the Prophet of God and I will punish anyone who performs them, the ‘mut'a’ of hajj and the ‘mut'a’ of women." Al-Razi has transmitted this saying from him (`Umar) arguing by it on the prohibition of the ‘mut'a’ of women, so refer to this .verse in his Tafsir al-Kabir

The Ash'ari theologian, and their Imam in what is rationally, and traditionally reported "al-Qushji" says in the later parts of the discussion on the Imamate in his great book called "Sharh al-Tajrid" that 'Umar said whilst he was on the minbar: "O people, there were three things at the time of the Prophet of God (S), and I forbid them and make them ‘haram’. I will punish anyone who commits them, the ‘mut'a’ of women, the ‘mut'a’ of hajj and [the saying of] "hayya 'ala khayril al-'`amal" (hasten to the best of acts)." He justified it claiming that this was his personal reasoning and interpretation. .The traditions on this and others like it are many and could fill the pages

Rabi`a b. Ummaya b. Khalf al-Thaqafi, the brother of Safwan, performed the ‘mut'a’ at the time of `Umar, according to what Malik has reported in the chapter of the marriage of ‘mut'a’ in his Muwatta' from `Urwa al-Zubayr who said: "Indeed Khawla, the daughter of Hakim al-Silmiyya, entered to see `Umar and she said to him: `Rabi`a b. Ummaya has performed the ‘mut'a’ with a lady who has become pregnant,' so `Umar went out pulling his

robe, saying: `this 'mut'a', had I preceded it, I would have stoned for it,'" i.e., had I forbidden it and warned one who undertakes it with stoning before this time, I would .'have stoned Rabi`a, and the lady who performed the 'mut'a

This was his stand before prohibiting it as has been documented by Ibn `Abd al-Barr according to what al-Ruzqani reports from him in his commentary on the 'Muwatta'. There is no doubt that this speech shows that the discarding of the permissibility of 'mut'a' came from him, not from anybody else

Those who deny It

According to al-Tha`labi and al-Tabari, `Ali (as), the Commander of the Faithful, repudiated him. When these two authors reached the verse of 'mut'a' in their major tafsir works, they reported with a chain of transmission to him saying: "Had `Umar not prohibited the 'mut'a', nobody would have fornicated, apart from those on the ".[verge [of death

Ibn `Abbas also repudiated him saying: "The 'mut'a' was nothing but a mercy which Allah showered on the umma of Muhammad (S), had he (`Umar) not prohibited it, no one apart from those on the brink of death would have needed to fornicate," that is, apart from a few people as explained by Ibn al-Athir [when discussing] the source of the word shafi'i in his Nihaya. Ibn `Abbas used to declare openly that it was permissible, and he had with Ibn al-Zubayr, even in the time of his rulership, many (discussions, too lengthy to mention here. Jabir also repudiated him (`Umar

.as you have read in his traditions

Similarly, his own son `Abd Allah repudiated him as is proven from him. Imam Ahmad has reported on page ۹۵ in the second volume of his 'Musnad' from the tradition of `Abd Allah b. `Umar. He said he was asked on the 'mut'a' of women: "By God, at the time of the Prophet of God (A.S), we did not use to fornicate, or, perform adultery." Then he said: "I swear by God I heard the Prophet of God (S) say there will be, before ".the day of Judgement, Jesus, the anti-Christ and thirty, or, more liars

Then he was asked again about the 'mut'a' of women and he said, according to the 'Sahih' of al-Tirmidhi: "It is allowed." It was said to him that "your father prohibited it." He said: "Don't you see that if my father prohibited it while the Prophet performed it will you then leave the 'sunnah' and follow my [Abd Allah son of Umar b. al-Khattab] "?[father [Umar b. al-Khattab

Abd Allah b. Mas`ud also repudiated him as is well known from him. The two Shaykhs` have reported in their 'Sahihs', and the words are being from al-Bukhari, from `Abd Allah b. Mas`ud who said: "We were on an expedition with the Prophet of God (S), and we had nothing. So, we said: `Shall we not castrate [ourselves]?' He prohibited us from that, and he allowed us to perform the 'mut'a' marriage to an appointed time. Then he read

:for us the verse

O you who believe, do not prohibit the good things which Allah has allowed for you,` "'.(and do not transgress for Allah does not love those who transgress (۵:۸۷

You know from the recitation of the verse of the severe repudiation of prohibiting it as .'has been clearly explained by the commentators of the two 'Sahihs

According to what has been widely reported, `Imran b. Husayn repudiated him. Al-Razi reported from him that he said: "Allah (S.W.T.) revealed a verse concerning the 'mut'a' and He did not abrogate it by another verse. The Prophet of God (S) commanded us to perform the 'mut'a', and he did not prohibit us from it. Then a man .said something according his opinion as he wished." Al-Razi said he meant `Umar

Al-Bukhari has reported in his Sahih from `Imran b. Husayn who said: "The verse on the 'mut'a' was revealed in the book of God (Holy Quran) and we performed it at the time of the Prophet of God (S). No verse was revealed to prohibit it, and he did not ".prohibit it until he died, then a man said according to his opinion what he wished

Ahmad has reported in his 'Musnad' from Abu Raja' from `Imran b. Husayn who said: "The verse of 'mut'a' was revealed in the book of God (S), and we acted according to it with the Prophet of God (S); no verse was revealed to abrogate it and the Prophet (S) did not prohibit

".it

During the time of his Caliphate, al-Ma`mun ordered that it be proclaimed that the 'mut'a' was allowed. Muhammad b. Mansur and Abu Ayna' entered to see him and they found him brushing [his teeth] and he was saying, according to what Ibn Khallikan has reported, while he was in a furious state (quoting `Umar): "I have prohibited you from the two 'mut'as' which were at the time at the Prophet of God (S) ".and Abu Bakr

He (al-Ma`mun) said: "Who are you, O dung beetle, that you prohibit what the Prophet of God (S) and Abu Bakr used to do?" Muhammad b. Mansur wanted to talk to him (al-Ma`mun), but Abu Ayna' signaled to him. He said: "The man is speaking "?against `Umar Ibn Khattab, shall we talk to him

They did not talk to him and Yahya b. Aktham entered to see him. He (Yahya) talked to him (al-Ma`mun) confidentially and scared him of sedition. He mentioned to him (al-Ma`mun) that the people thought that he was introducing a major innovation [bid'a] in Islam by this proclamation which would affect all the masses since, for them, there was no difference between the call to permit the 'mut'a' and the call to allow fornication. He was on that course until his resolution was dissolved as he had .compassion on his kingdom and on himself

Amongst those who rejected the prohibition of 'mut'a' and allowed, and practiced it was `Abd al-Malik b. `Abd al-`Aziz b. Jurayh Abu Khaliq al-Makki. He

was born in the year ۸۰ and died in ۱۴۹ A.H. He was amongst the foremost of the successors. Ibn Khallikan has profiled him in his Wafayat and Ibn Sa'd on p. ۳۶۱ in the .fifth volume of his Tabaqat

The people of the 'Sihah' have used him in their arguments. In his book "al-Jam' bayn rijal al-Sahihayn," Ibn al-Qaysarani profiled him on p.۳۱۴. Al-Dhahabi mentioned him in his Mizan, and said that he married about ninety women by 'mut'a' and he saw it admissible to do that. He said: "He was a jurist amongst the people of Mecca in his ".time

'The View of the Imamis (Shi'i) on 'mut'a

The Imamis have agreed, following their twelve Imams, on its continued permissibility in accordance with the proofs, some of which you have read i.e., the consensus of the people of 'qibla' that the Almighty Allah legislated it in His true religion, and allowed it's proclamation by a caller of His great Prophet (S), and that no abrogation of it has been proven from Allah, the Almighty, nor, from His Prophet (S) until the revelation was .severed by the Almighty by His taking His Prophet (S) to the abode of His nobility

On the contrary, it has been proven that it was not abrogated by the texts of our authentic traditions successively transmitted from the Imams of the pure families; so, refer to its contents in the 'Wasa'il-ash-Shi'a ila ahkam al-Shari'a' [book of sayings .[revered as keystone for Shi'i

Moreover, the 'Sihah' of the 'ahl al-sunnah' and all their

Musnad' works are clear in documenting that it remained permitted and was' practised in the time of Abu Bakr and for a little while in the time of `Umar until the prohibition against it was issued by him concerning the matter of `Amr b. Harith. What we have mentioned in this quickly compiled report is sufficient for you [to start somewhere]. Indeed, in this is a reminder for those who have a consciousness, or, .who lend an ear and witness it

(Chapter Five: The Wiping or Washing of the Feet in the 'Wudhu' (Ablution

point

The scholars of Islam have differed on the type of purification of the feet [required] for the parts of the 'wudhu'. The jurists of the masses have stated (and amongst them are the four Imams), that it is obligatory to specifically wash [the feet]. Dawud b. `Ali, and al-Nasir li'l-Haqq, who are amongst the Imams of the Zaydiyya, have stated it is obligatory to combine between the washing and the wiping, whereas some of them have said one can choose between the two. The Imamis (in following the Imams .of the pure family of Prophet (S)) have said it is obligatory to wipe

(The proof of the Imamis (Shi'i

:(.The proof] is the saying of the Most High (Allah S.W.T]

(And, wipe your heads and your feet up to the anklebones."(۵:۶"

For us, the reasoning as explained by Imam al-Razi is sufficient. When arguing based on this verse he stated in detail saying: "The proof of those who say it is obligatory to wipe is based on two famous readings in the [Qur'anic] statement

and your feet' (verse ۵:۶). Ibn Kathir, Hamza, Abu `Amr and `Asim, based on the` reports of Abu Bakr narrated from him, have recited it in the genitive case; Nafi', Ibn `Amir and `Asim have recited it, according to the tradition reported by Hafs from him, ".in the accusative case

He (al-Razi) said: "So we say, as for the recitation in the genitive, it would necessitate the feet [in the verse] to being a conjunction with the head. Therefore, just as it is obligatory to wipe on the head, similarly [it is so] on the feet." (Al-Razi said): "If it is said why is it not permissible to claim that the [word feet] ends in the genitive case due to the rule [stating] that the genitive case is inserted based on what closest to it as it is in the saying 'the hole of a lizard is destroyed', and 'the leaders of the people are '?wrapped up in a garment

:We say, this is invalid for several reasons

The [rule of the] genitive case being inserted based on the word closest to it is (۱ considered to be a mistake which is tolerated due to the needs of a poem, whereas .the speech of God [Allah S.W.T.] is necessarily above that

The above rule is only applied where the possibility of confusion is safeguarded (۲ against like the saying 'the hole of a lizard is destroyed' for it is necessarily known that ,that destruction is not attributed to a lizard

.rather, it is to a hole, whereas there are no safeguards against confusion in this verse

The [rule of the] genitive case being inserted based on the word closest to it is (٣ applicable [only] when there is no conjunction; as for when there is a conjunction the Arabs do not use it." And, al-Razi [further] said: "As for the reading [of the feet in the verse] being in the accusative case, they have said that this also requires the wiping, and that is because of His saying `and wipe your heads,' the [word] head [in the sentence] is in an accusative position, due to the command `wipe', as it (the head) is the object [in the sentence]; but, it is [written] in the genitive case due to the .preposition ba

So if `the feet' are conjoined to `the head' [in the sentence] then we are allowed to read `the feet' in the accusative case, as it is conjoined to the position of the head [which is in the accusative case in the sentence]. We are [also] allowed to read it in the ".(genitive case as a conjunction (to the apparent preposition

He said: "If this is clear, then we say it is clear for us that it is permissible that the `amil (a word governing another in syntactical regimen) of the accusative in His saying `...and your feet....' be His saying `wipe.' [However] it is permissible that [the 'amil] be His saying `wash' but if the two `amils are combined

on one word, then the closest one is the best [to use]." He said: "It is obligatory that the 'amil of the accusative in His saying `and your feet' be His command `wipe.'" (Al-Razi said): "So it is clear that the recitation of `and your feet' in the accusative also .[leads to the wiping [of the feet

Then they [objected] saying it is not permissible to defend it (the wiping) by traditions because all of them are in the form of singular traditions, and the abrogation of the Qur'an by a singular tradition [only one saying- 'hadith' supporting the claim] is not ".allowed

This is his speech word to word, nothing is left out, but he (al-Razi) further said: "There are many traditions reported on the obligation of washing. Washing [the feet] includes the wiping whereas the opposite is not the case. Therefore washing is closer to observing caution. So, it is necessary to opt for it (washing). On this basis, it is necessary that the washing of the feet takes the place by the wiping." I say, as for the traditions on washing, you will know the view of the Imams of the Ahlul Bayt and their .friends about it soon, God willing

As for his saying that the washing includes the wiping, this is a clear mistake, rather, they are two [separate] entities linguistically, according to custom and the 'shari`a'. It is necessary to note that washing the feet cannot take the place of wiping them. Imam al-Razi

stood between two opposites; the contradictions between the fixed Qur'anic verse and, in his view, the authentic traditions; therefore, he confused himself by saying that the washing includes the wiping, and that it is closer to the most cautious [course] .and that it takes the place of the wiping

In doing this] he thought thereby that he combined the verse and the traditions. One] who examines this defence of his will find him in confusion. Had there not been a clear verse indicating the obligation of wiping on the feet, he would not have needed to make the washing take the place [of the wiping] so examine and contemplate .carefully

A group of the intelligent scholars of 'fiqh' (jurisprudence), and Arabic tread this path, amongst them was the jurist, and researcher Shaykh Ibrahim al-Halabi who studied the verse on the 'wudhu' in his book called "Ghaniyah al-Mutamla fi sharh maniyya al-".musalli 'ala madhhab al-Hanafi

He said: "It (the feet in the aforementioned verse) has been recited by the seven [reciters] in the accusative, and the genitive cases; the famous opinion is [to recite] it in the accusative case, conjoined to `on your faces' and the genitive case is inserted ."on that word which is closest to it

He (al-Halabi) said: "And the correct view is that the feet are conjoined to the head in the two recitations, [it can be recited in] the accusative due to the position in the sentence (as it is the object in the sentence) and

they (the feet in the statement) can be recited in the genitive case due to the ".preposition

He continued: "That is because of the prohibition of the conjunction [of the feet] to 'on your faces' because of the separation between the conjunction (`atf) and that which it is conjoined to (ma`tuf alayh) due to a foreign sentence (which is 'wipe your ".('heads

He said: "And, the rule is that there should be no separation between the two (the conjunction and what it is conjoined to) by a word let alone by a sentence. We did not hear in pure Arabic that I hit Zayd, and I passed by Bakr and `Amr with a conjunction of `Amr on Zayd. As for the genitive case being inserted based on the word which is closest to it, it can occur rarely in adjectives like the saying of some of them: "This hole ".of the lizard is destroyed

And, amongst those who traveled this clear path is Abu'l-Hasan al-Imam Muhammad b. `Abd al-Hadi known as al-Sanadi in his commentary on the Sunan of Ibn Maja. He says (after being sure that the apparent meaning of the Qur'an requires wiping): "The wiping is the apparent meaning from the book because reciting it in the genitive case is apparent in it; however, imposing the recitation in the accusative case by making it a conjunction to the position [in the sentence] is better than preferring the recitation in the genitive case over the accusative case as stated

".by the grammarians

He said): "Also, by doing this, we are free from the separation by a foreign (sentence)) between the conjunction and what it is conjoined to. So, the apparent meaning in the Qur'an is the wiping." These are his words but, like others, he deemed it necessary to ".interpret the Qur'an [according] to the traditions which explicitly talk of the washing

Concerning this verse, Imam al-Zamakhshari has philosophized it in his al-Kashshaf [saying]: "The feet are amongst the three parts which are to be washed by pouring water on them; they (the feet) are the place one expects the prohibited extravagance of water [to be practised]; hence, it was conjoined to the third part of the 'wudhu' [which is] to be wiped; it was conjoined to it (the head) not for the sake of wiping but to indicate the necessity of moderation when pouring water on the feet." He said: "And, the verse states `to the anklebones' as the final point [in washing] to remove any thoughts of those who might think that they (the feet) are to be wiped since no limits ".'have been imposed on the wiping in the 'shari`a

This is the reasoning offered for the conjunction of the feet on the head and for mentioning the limits [of wiping] on the feet. As you can see, nothing in it is derived from the shari`a rulings from the fixed verse. Neither is there anything concerning it in the exegesis, nor, is there any verse which

.(proves it (his view

He is merely trying to interpret the verse according to his views rather than deriving his views from the proofs. He has exceeded the limits in his, speculations, nobody pays heed to him except one who is convinced of washing the feet based on primary juristic rulings. As for it being a point of contention, it is not to be paid heed to especially after their admission that the apparent meaning of the book indicates the obligation to wipe. Sufficient for us is the Arabic [grammatical] rule that the feet are conjoined to the wiped head, this is according to the agreement of the sources and .juridical rulings

A View on the Traditions of Washing the Feet

The traditions on washing [the feet] are of two types, there are those which do not indicate it, like the tradition of `Abd Allah Ibn `Amr b. `As. He says, as reported in the two 'Sahihs' that: "We lagged behind the Prophet (S) on a journey we traveled with him. We caught up when the time for the 'asr' prayer had set in. So, we started wiping "."on our feet and he said: "Woe to the heels from the fire of hell

If this [tradition] is correct it would lead to the wiping since he (S) did not forbid it (the wiping) rather, he (S) emphasized it for them as you see. He (S) merely rebuked them for the filthiness of their heels, no wonder, amongst them were Arabs who were completely ignorant; they were urinating on their

heels especially when traveling. He threatened them with the fire so that they would .not pray with their impure heels

Amongst these traditions are those which indicate the [obligation of] washing like the tradition of Humran, the client of `Uthman b. `Affan. He said: "I saw `Uthman pouring out [the water] on his hands from his vessel and he washed them three times. Then he ".put his right hand for the 'wudhu' then he rinsed, inhaled then he went away

It has been reported in it that he then washed every foot three times and he said: "I saw the Prophet (S) performing the ablution just like my ablution." Similar to this is the tradition of `Abd Allah b. Zayd b. `Asim al-Ansari, and it was said to him: "Perform the 'wudhu' for us like the 'wudhu' of the Prophet of God (S)." So, he asked for a vessel and he turned it over his hand and, at the end of the tradition, it states: "then he washed his two feet up to the anklebones." Then he said: "This was the 'wudhu' of the Prophet of God (S)" and other traditions reported along these lines. There are :objections for many reasons

Firstly, they are contrary to the book of God, the Almighty and Glorious, and [contrary] to what the Imams from the pure family have agreed on. The book and the family are the two weighty things of the Prophet of God (S) which will never ever separate and the

community will not go astray if they stick to the two, so whatever contradicts them .should be discarded

What is reported from the savant of the 'ummah' and the receptacle of the book and the 'sunnah', `Abd Allah b. `Abbas is sufficient to refute the [act of] washing, and the weak traditions [on washing]. He was arguing for the wiping, and would say "Allah has imposed two washings, and two wipings, don't you see that when He mentioned the 'tayammum', He imposed two wipings instead of the two washings and he left the two "?[wipings of the 'wudhu' [as they were

He used to say that the 'wudhu' consists of two washings, and two wipings, and when he learnt that al-Rabi`, the daughter of Ma'udh b. `Afra al-Ansariyya, claims that the Prophet (S) used to do the 'wudhu' at her place, and he would wash his feet, he came to her and asked her about it. When she related it to him he said, not verifying but repudiating and arguing, "the people refused [everything] but the washing whereas I ".do not find in the book of God anything but the wiping

Secondly, if this (obligation of washing in the ablution) was true, it would have been successively transmitted because the need to know about the purification of the feet in the 'wudhu' is a general need for the men and women of the community, for those who are free and those who are slaves. It is a basic need for

.them every day and night

If [the command] "do not wipe" was understood by the ruling of the verse those who follow the shari'a (mukallafun) would have known it at the time of the Prophecy, and after it. It would have been a certain thing between them; these traditions would have been successively transmitted from the Prophet (S) at all times and in all cities and there would have been no opportunity to refute, or, doubt them. Since this is not so, .the weakness of those invalid and baseless traditions becomes clear to us

Thirdly, the traditions on the type of purification of the two feet are contradictory. Some of them require the washing like the traditions of Humran and Ibn `Asim, and, as you have read, some of them indicate the wiping like the ‘hadith’ which al-Bukhari reported in his ‘Sahih’. All of this has been reported by Ahmad, Ibn Abi Shayba, Ibn Abi `Umar, al-Baghawi, al-Tabrani and al-Mawardi, all of them with a chain of reliable transmitters. From Abu`l-Aswad and `Ibad b. Tamim on the authority of his father who said: "I saw the Prophet of God (S) performing the ablution and wiping on his ".feet

Similarly, Shaykh (Tusi) has reported an authenticated tradition from Zurara and Bukayr, the two sons of A`yan, from Imam al-Baqir (as) that he narrated the ‘wudhu' of the Prophet of God (S). He wiped his head and his feet to the anklebones with his .palm and he did not take fresh water

It is reported from Ibn `Abbas that he narrated the 'wudhu' of the Prophet of God (S), and he wiped, as reported in Majma' al-Bayan, on his feet. When the traditions contradict each other, the source of reference is the book of God, the Almighty and Glorious, we cannot deviate from it.

The view on their argument here based on 'Istihsan'

Sometimes the masses argue for the washing of the feet, they see it as most suitable for the feet rather than wiping [the feet], just as wiping is more suitable for the head rather than the washing because mostly, the filth on the feet cannot be cleaned except by washing them as opposed to the head, it can be cleaned mainly by wiping.

They said that there is nothing to prevent the benefits, as understood by the intellect, to be causes for the prescribed worship. Thus the law looks at [an act] in two meanings: the general benefit and the benefits derived from that [act of] worship. By the general benefit they mean the benefits that can be sensed [by the intellect] and by [the benefits] of worship they mean what refers to the purification of the soul.

I say: We believe that the lawgiver [Allah S.W.T.] was lenient to His slaves in everything that He prohibited them from, unless where there was corruption for them. Despite that, He did not impose a single shari'a ruling on them nor did He command them to do anything unless it was to their benefit. He did not make these rulings

dependent on the slaves' views of the benefits, and corruption; rather, He imposed the rulings on them with strong proofs which He prescribed for them. He (Allah) has .not given any alternative to them, nor, has He prescribed anything equivalent

The first source of those rulings is the book of God, the most Mighty and Glorious, in which He has commanded the wiping of the head and the feet in the ‘wudhu’; so, it is essential to abide by His ruling. As for the cleanliness of the foot from filth, it is necessary to guard against it before wiping on it acting in accordance to special proofs, which show that it is a prerequisite that the parts where ‘wudhu’ is done must .be pure before starting it

Perhaps the washing of his feet by the Prophet of God (S), as reported in the traditions, was due to this reason. Maybe he did it to cool his feet, or, because he was .intense in observing cleanliness after completing the ‘wudhu’ and God knows best

Notice

Ibn Maja has reported concerning the washing of the feet in his ‘Sunan’ from Abu Ishaq on the authority of Abu Hayya, he said: "I saw `Ali (as) doing the ‘wudhu’ and he washed his feet to the anklebones, and then he said: `I wanted to show you the purification of your Prophet (S)'" When he completed this citing tradition, al-Sanadi said in his comments on the ‘Sunan’: "Since the washing has been narrated from `Ali ,((as

this is a major refutation against the Shi`a who believe in the wiping of the feet." He further said: "Therefore the author has mentioned it on the authority of `Ali (as), and has started the chapter with it.

The author has done well, and he excelled in reporting the hadith of `Ali (as) in this chapter, may God [Allah S.W.T.] reward him for that." He said: "The apparent meaning from the Qur'an necessitates the wiping as has been reported from Ibn `Abbas but it is obligatory to interpret it as referring to washing." These are his words, may God forgive him, Imam Ibn Maja, and all the scholars of the masses. They know that this tradition is invalid because its chain of transmission is invalid due to several reasons.

Firstly, Abu Hayya, the reporter of this tradition, is completely unknown. Al-Dhahabi mentioned him in the section of the patronymics (al-kuna) in his Mizan and has stated that he is not known. Then he cited Ibn Madini and Abu Walid al-Fardi saying that he (Abu Hayya) was an unknown person. Then he said: "Abu Zar`a said he is not mentioned." I say I have investigated Abu Hayya extensively and I have not found a discussion except that it mentioned him as an unknown person; perhaps, some fabricators of traditions have fabricated him, and God, the Almighty, knows best.

Secondly, this tradition is only reported by Abu Ishaq. He grew old and he used to forget and confuse traditions, so people abandoned

him. Nobody except Abu al-Ahwas and Zuhayr b. Mu`awiya al-Ju`fi narrated from .him, and people found fault with him because of that

No wonder, if a traditionalist mixes up [traditions], all his traditions which are not known to have been transmitted before his becoming confused become invalid; [this is applicable] whether it is known that it has been reported after his confusion (like this tradition), or, the date of the tradition being reported is not known. [This is] because general knowledge in doubtful specific circumstances necessitates keeping away from all the peripheral matters as has been established in 'usul al-fiqh' (the science of .(deriving juridical principles

Thirdly, this tradition contradicts established traditions from the Commander of the Faithful [Ali ibn Abi Talib (as)], and from his sons, the 'Ahlul Bayt' of the Prophet [Muhammad] (S), and the place where Prophecy was revealed, and the frequenting place of the angels, and where revelation was revealed; it also contradicts the book of .God, the Almighty and Majestic; so let us discard it

Wipe up] To the two anklebones]

The two anklebones are mentioned in the verse of the 'wudhu', they are the joints between the legs and the feet, according to the ruling of an authentic tradition reported by Zurara and Bukayr, the two children of A`yan. They asked Imam al-Baqir (as) about it. This is clear from [Shaykh] al-Saduq, he has also reported from them. The Imams of the languages have also stated that every joint of the bones is an .anklebone

The masses have stated that

the anklebones here are the two bones which grow on the side of every leg. They have argued that if the anklebone is the joint between the foot, and the leg, this would mean every leg has one anklebone so it would have been necessary for God [Allah S.W.T.] to have said: "and [wipe] your foot to the anklebones." Just as it is clear that for every hand there is an elbow, He said: "and your hands with the elbows."

I say if He [Allah S.W.T.] had stated with the two elbows then it would have been correct without any doubt, and the meaning becomes: "and wash your faces and your hands with the two elbows of all of you and wipe your heads and feet to the two anklebones of all of you." Thus [using] the dual and plural of the two words in the verse are equivalently correct. Similar is the case if one is mentioned in the plural and the other in the dual. Perhaps that would be required for artistic [poetic rhythm] expression.

This only applies if we talk of one anklebone in the foot, but if there are two anklebones in every foot then there is no point for them to dispute. Anatomists have agreed that there is a bone which is circular like the anklebone in the cattle and the sheep under the bone of the leg where the joint of the foot and the leg [is located], this is also called the anklebone.

Based on this, the wiping of every foot ends at the two anklebones, and they are the joint itself, with a round anklebone under it. In [using] the dual for the anklebone in the verse, and not using dual for the elbow is a subtle point, and an indication; something which only anatomists knew, so Glory be to the one who Created, the One who is .most Knowledgeable, and the most Wise

The Wiping on the Slippers and Socks

The jurists of Islam have differed greatly on the [question of] wiping on slippers and socks, [differences] which can not be covered in this haste. In short, the discussion on it is connected with the question of its permissibility, and non-permissibility and on limiting and defining its position. It [also] pertains to its characteristics, its timing and .prerequisites and [on what] nullifies it

:As for it being permissible, there are three views

.Always allowed whether one is traveling, or, at home (١

.Permissible when traveling, not when at home (٢

Not allowed at all as it has not been regulated in religion. The three views are (٣ .narrated from the first generation, and from [School of] Malik

As for defining its position, they have also differed on it. There are those who say that it is obligatory to wipe the upper part [of the slipper], and that the wiping on the lower part is recommended. [Others] state that it is obligatory to wipe the outer, and the .inner parts

The third view is that it is obligatory to

wipe the outer rather than the inner part, for the wiping of the inner part is neither obligatory, nor, recommended. There are those who say that one can choose between wiping the inner and the upper part, whichever you wipe becomes .obligatory

As for the type of position, those who say [it is necessary] to wipe on the slippers have .differed on the wiping on the socks, some have allowed it others have disallowed it

As for the description of the slipper, they have differed on the [permissibility] of wiping on torn slippers. Some have allowed wiping on it as long as it can [still] be called a slipper even if its externalities is excessive. Amongst them are those who have not allowed the front part of the slipper to be torn whereby the foot, however little, may .be visible. Some of them have allowed wiping on it provided the tear is little

As for it's timing, they have disagreed on it [too]. Some have said there is no time [fixed] for it and that the wearer of the slippers can wipe on them as long as he has not removed them, or, he has not become ritually impure. Some have stated that there is a special time for that (the mash) for those at home, those traveling have a different time, they have also differed on the description of a journey, and [definition] .of the distance

As for the conditions of wiping on the slippers, it is that when

wearing the slippers the feet must be pure by performing the ritual ablution ('wudhu'). This is a condition which most of them have imposed. However, it has been narrated from [School of] Malik that this is not a condition. They have disagreed on the question of one who has washed his feet, worn his slippers, and then completed his 'wudhu'; is his washing of the feet sufficient for him before he wears them or must he wipe .them? They have two views on this

As for different [things] breaking the [act of] wiping, one of them is the removal of the slippers. A group has stated that the purity remains if he removes the slippers, until something which breaks the ablution occurs, he does not have to wash his feet. Others have said that his purity is broken by his mere removal of the slippers. Others still have said that his purity remains if he washes his feet after removing his slippers. If he prays without washing them then he has to repeat the prayer after washing them. [They have] other differing views, and contradictory verdicts on that which .pertain to the wiping on the slippers, it is not our intention to discuss the details now

As for the Imamis (Shi'i), following their predecessors, following the Imams of the pure family of Prophet Muhammad (S), [their view] is that they do not allow the wiping ,on the slippers, whether that be at home, or, on a journey. For our proof

the saying of the Almighty is sufficient. He said: "And, wipe your heads and feet to the .anklebones." This [verse] imposes the obligation of wiping on the feet themselves

Where did the wiping on the slippers come from? Has this verse been abrogated? Or, is it ambiguous? Never, on the contrary, and this is unanimously agreed upon, it is amongst the unambiguous verses which are [part of] the mother of the book [surah al-fatiha]. The exegetes are agreed that there is no abrogation in the chapter of Ma'ida (chapter ۵) which includes the verse on the 'wudhu' except for one verse

".(O you who believe, do not violate the sanctity of the symbols of God (۵:۲"

Some of them have claimed that it, not other verses of the blessed chapter, have .been abrogated

As for the traditions which indicate the permissibility of wiping on the slippers, they do not prove anything according to our conditions. We have shown their weaknesses. :Additionally there are [other] considerations

They are opposed to the book of God, the Almighty and Glorious. It has been (۱ reported from the Prophet of God (S) that he said: "If a hadith is reported to you from me then compare it with the book of God. If it agrees to it then accept it, otherwise ".reject it

They (the traditions) contradict themselves, therefore many differences have (۲ arisen amongst those authenticating them, acting on what they require, as you have noted. What we have indicated recently is that they

have differed on their verdicts as they (the traditions) contradict themselves since .they are the sources for their (the jurists') rulings

The consensus of the Imams of the pure family of Prophet Muhammad (S) (`Ali and (۳ his sons, the legatees) on the ruling of not permitting the mash (wiping) on any obstacle whether it be [in the form of] slippers, socks and shoes, or, other types [of materials], their traditions clearly contradict the traditions of the masses which .indicate the permissibility of doing so

The ruling that is established concerning contradictory traditions is to prefer what agrees with the book of God, the Almighty, the Glorious. This applies if they are equal as regards to their 'isnad' and proofs. How can the weighty [thing] from the Prophet of God (S), the other half of the book of God, the most High, the ships of salvation of the 'ummah' and the door of [reducing the] burden of its sins and its [the 'ummah's'] ?[safety from differences be equal [to these traditions

If this [wiping on the slippers] was true, then it would have been successively (۴ transmitted at all times, and places. This is because the need to know the purity of the feet in the 'wudhu' is a general one, as we have said before, for the men and women of the 'ummah'. It is a basic need for them every day and night whether they are at ,"home, or, on a journey. If the verse meant "not wiping

those abiding by the 'shari'a' would have known it at the time of Prophecy, and after .it

It would have been an established thing amongst them in all generations especially as it is coming in devotional worship whose meaning is not rationally derived. [The fact that] it is alien to the act of worship would necessitate it being well-known due to its awkwardness. Since the matter is not so, the weakness of these invalid and baseless .traditions becomes clear to us

Assuming that this [wiping on the slippers] is correct, there should have been an (۵ abrogating [verse] to the verse of 'Surah al-Ma`ida', since this is the last chapter that was revealed. By it, Allah perfected His religion and completed His blessings and He .was pleased with Islam as His religion

Its obligations are obligatory to the day of resurrection; its prohibitions are forbidden to the day of resurrection. Just as the mother of the faithful, `A'isha, said to Jubayr b. Nafir, when he performed the pilgrimage and visited her, "O Jubayr, do you recite the Ma'ida?" He said: "Yes." She said: "It is the last chapter which has been revealed, what you find permitted in it then consider it as 'halal', what you find forbidden in it ".then prohibit it

The masses stubbornly cling to the ruling of mash on the slippers [even] after its revelation due to the 'hadith' of Jarir: He urinated, then he performed the ablution and wiped on his slippers. It was said to

him: "Do you do this?" He said: "Yes, I saw the Prophet of God (S) urinate [God forbid], and perform the ablution wiping on his slippers." Muslim reported it and he also reported that this ‘hadith’ surprised them because the conversion of Jarir was after .the revelation of the Ma'ida

I say: On the contrary, his conversion was before the revelation of the Ma'ida. The proof of this is his presence at the farewell pilgrimage with the Prophet of God. He asked him on that day, as is in the biographical profiles of ‘al-Isaba’, reporting from the two ‘Sahihs’ that he should ask the people to hear [the sermon]. So, his conversion must have occurred before that pilgrimage, and the revelation of the ‘Surah al-.Ma'ida’ certainly did not occur before that

Furthermore, al-Tabrani reported from Jarir, as reported in the profile of al-Isaba, he said: "The Prophet of God (S) said: `Your brother al-Najashi has died.'" The death of al-Najashi occurred before the revelation of al-Ma'ida for there is no doubt that he .died before ۱۰ A.H

Al-Qastalani has another strange stubbornness: He says, about wiping on the slippers, the mash is not abrogated by the ‘hadith’ of al-Mughira. The Prophet's (S) wiping on his slippers is clear in the battle of Tabuk, and it was his last battle, and the .'‘Surah al-Ma'ida’ was revealed before it during the expedition of ‘al-Marisi

I say: The expedition of ‘al-Marisi' was also the expedition of the Banu Mustaliq, they occurred on the

second night of Sha'ban in the fifth year, some say in the fourth year as is [reported] by al-Bukhari from Ibn `Uqba. Al-Nawawi also followed this in his al-Rawda. It has been said that it occurred in ۶ A.H. After it, 'surah al-Ma'ida' and many other chapters were revealed. The verse on 'tayammum' was revealed during it (the expedition). This :(is the saying of the most High in 'surah al-Nisa' (chapter ۴

If you are sick, or, on a journey or if you go for a call of nature or if you have gone" into your women and you do not find any water then perform the 'tayammum' on ".(pure earth and wipe on your faces and hands, God is most forgiving, kind (۴:۴۳

The report on this is established from `A'isha, as it is reported by al-Wahidi in his book [entitled] Asbab al-Nuzul (occasions of revelations); so, refer to it so that you are sure that al-Qastalani mistook the verse on ablution with the verse on 'tayammum'. Moreover, we do not depend on al-Mughira and Jarir, soon you will know what we have discovered about al-Mughira. Jarir had behaved with the legatees (of the .Prophet of God (S)) in a manner which makes us doubt about him too

The mother of the faithful `A'isha, despite her status with the 'sunnah' and her (۶ astuteness, and despite her location where revelation descended and was legislated, would strictly forbid the wiping on the slippers. Ibn `Abbas (he was the scribe of

the ‘ummah’ and the receptacle of the book and ‘sunnah’ and cannot be denied) was also amongst those who severely refuted it. Both of them refuted it to the utmost possible degree. Why don't you examine her statements with me? [She said] "Because cutting my feet is more beloved to me than wiping on the slippers." He (Ibn `Abbas) said: "Wiping on the skin of a donkey is more beloved to me than wiping on ".the slippers

Can you reconcile this form of rejection with those traditions? Never! Given her status, they can never be reconciled. If these are the statements reported orally from her, by those who know the thick and thin [of traditions], how is it possible for us to rely on them given our remote distance from them (the traditions) over centuries and ?generations

One who examines, without prejudices, the repudiation [of mash] by those close to the Prophet of God (S) like his wife and his cousin and all the guided leaders from his .holy family (Ahlul Bayt), he would be compelled to doubt those traditions

From this, you will know that the claim that they (the traditions on wiping on the slippers) have been successively transmitted is extravagant and [mere] speculation. Can they reach the level of ‘tawatur’ (i.e. successively transmitted by many chains of authority) whilst these pious notables be ignorant? Or, are they ignorant of the .traditions? This is a great accusation

If they were successively transmitted, then `Abd Allah b. `Umar would

not have refuted them, nor, would Imam Malik in one of the two traditions reported .from him, nor, would any other upright, upright believing predecessor refute it

Those who have done complete injustice have said: "I fear unbelief for one who does not wipe on his slippers." It has been seen that the mash on the slippers is not a part of religion, nor, is it amongst the essentials of its derivatives, nor, is it something which the book has imposed, nor, is it, by the consensus of the 'ummah', that the 'sunnah' .has made obligatory

Rather, it is merely a dispensation for a part of the Muslim community. Is there any blame for one who does not practise it [acting instead] in accordance with what the verse on 'wudhu' has imposed? The people of the 'qibla' (a commonly accepted amonst all schools of thought direction towards 'Kaaba' in Mecca, also the site of 'Hajj' pilgrimage, in order to pray) have agreed on the correctness of the acts which it .(the verse) dictates, and have agreed on the permissibility of the prayer by that

On the other hand, the correctness of the 'wudhu', the removal of uncleanness and the permissibility of prayer by it (i.e. by wiping on the slippers) is a point of dispute between the Muslims. Can disbelief be feared from one who observes caution? What is your view of `A'isha, `Ali (as), Ibn `Abbas and all the 'Ahlul Bayt' since they did not observe the wiping on

?the slippers, O Muslims

('The mash on the turban ('imama

Our scholars have stated that wiping on the turban is not allowed. This is the view of [School of] al-Shafi`i, Abu Hanifa and Malik, Imam Ahmad b. Hanbal, Abu Thawr, al-Qasim b. Salam, al-Awzai and al-Thawri opposed this. The difference is reported from others too. They have stated that it is allowed by drawing an analogy with the [mash on] slippers and acting according to the 'hadith' of al-Mughira b. Shu`ba that the Prophet of God (S) wiped on his forelock, and on his turban. Other chains of .transmission [state] that he had wiped on his turban, the forelock is not mentioned

The book of God, the Almighty and Glorious, "and wipe on your heads" and the practice of His Prophet of wiping on his (S) forelock are sufficient for us. This is certain, it does not require elucidation. The consensus on it has been formed both by it being narrated and through direct investigation ('muhassal'), thanks be to God, the Lord of .the Universe

There is no proof for them in drawing an analogy with the slippers for the religion of God cannot be known by analogy. Moreover, the mash on the slippers is forbidden, as .you know

As for the 'hadith' of al-Mughira, it is invalid, Muslim has reported it. Concerning the hadith, Abu `Umar Ibn `Abd al-Barr, has stated that it is a weak tradition. I say: Perhaps Abu Hanifa, al-Shafi`i and Malik did not attach importance to it as they deemed it

.to be weak too

Al-Mughira had a habit of deception, misleading people, inconsistency and trickery. He was immersed in vices, submersed in lust, and [indulged in] outbursts of treachery, and transgression of the limits [imposed] whenever he liked, and disliked especially with those enemies of the family of Muhammad (S) who follow them, and those .friends of God [Allah S.W.T.], and His Prophet (S) who had enmity towards them

He became a Muslim to spare his life from the Banu Malik and that was because he came with a group of their notables to Ceaser when he was in Alexandria. The Malikis succeeded in getting a gift from the king whereas he did not. He was overcome with greed and jealousy towards them so he invited them for drinks and they agreed to .accompany him

He made them drink until it affected their senses. He turned against them, and killed all of them, and he appropriated their wealth. Since he did not feel safe from [the vengeance of] their families he joined Islam. He came to the Prophet of God (S) when he was in Medina. He entered to see him and testified that there was no god, but .Allah, and that Muhammad was the Prophet of God

As was his practise with the believers and hypocrites, the Prophet (S) accepted his Islam. When the property of the Banu Malik was presented to him, he refused it. It was proper for him to accept it since it was from those

who had waged war, and they had seized it unlawfully, [property] which Allah, the most High, did not forbid [him to take]. However, since that was taken by deceit, his [Prophet Muhammad (S)] conscience did not allow him to accept it; so, he made his .(al-Mughira's) property forbidden for himself

This was his [Prophet Muhammad's (S) projection of Islam, it gives you a picture of his principles, and shrewdness. In a famous story of the events of the year ١٧ A.H., Abu Bakra, he was amongst the prominent companions, and his companions testified against him for acts which would require punishment. How can we compare the wise ?'Qur'an with his traditions, 'O people of understanding

?Is there a limit to the wiping on the head

Our scholars have ruled that there is no limit to the mash on the head, not for what one is wiping with (extent of fingers), nor, that is being wiped; rather, what is normally called a wiping is sufficient even if that means the minimum of touching according to the 'urf' (conventional usage of the term "wipe"). This is also the school of thought of the Shafi. The two Imams, Malik and Ahmad, and a group of others have maintained that it is obligatory to wipe on the whole head, whereas Imam Abu Hanifa has said it is obligatory to wipe a quarter of it with three fingers, if he wipes with less than that it is .not proper for him

Our proof is the saying of the most High [Allah S.W.T.]: "And wipe on your

heads," the meaning is [any form of] touching of the head. Just as this can be attained by embracing [the whole head] and by a quarter of it, it can [also] be attained by a minimum of what is [normally] called wipe even if it be by a part of the finger passing on a part of the head. There is absolutely no proof for what they have specified (a .(specific portion of the head

If He intended embracing [the whole head], the most Glorious would have said: "and wipe on your whole heads" just as He said "wash your faces." If His intention was a specific amount of wiping, He would have clarified it as He did with the washing of the hands when He said "with the elbows" and concerning the wiping of the feet He said "."to the anklebones

Chapter Six: The Wiping of the Ears and the Six Different Derivatives

point

The Imamis (Shi'i) are agreed, in following the Imams from the pure family of Prophet Muhammad (S), that the mash of the ears is not a part of the 'wudhu', for there is no proof for it in the book, the 'sunnah', or, in any consensus. Rather, it is clear from the book that the 'wudhu' consists of the two washings - the face and the hands - and the .two wipings - the head and the feet

The [School of] Hanbalis have deemed it obligatory to wipe the ears with the auditory meatus. Ibn Rushd reported this view from Abu Hanifa, and his companions. [School [of

Al-Shafi'i and Malik say that wiping them is recommended. They have differed regarding taking fresh water for them. A group has broken up from them and have stated they (the ears) are to be washed with the face. Others have said: "The inner [part] is to be wiped with the [wiping of the] head, the outer is to be washed with the face." Al-Shafi`i says it is recommended to repeat [the act] just as he recommends .[the repetition] when wiping on the head

They have argued based on weak traditions, they do not prove anything for us. The two Shaykhs, al-Bukhari and Muslim, have not reported anything about it. Despite the weak traditions, those attaching importance to it have done so due to the force of it .being widely practised amongst them

But, the Imams of guidance [from the holy family of Prophet Muhammad (S)], being the weighty thing from the Prophet of God (S), did not pay heed to it; they are the people of the house of Prophecy. The people of the house ('Ahlul Bayt') are more .knowledgeable regarding this, for us, the two weighty things are sufficient

?Is It Sufficient to Wash the Head Instead of Wiping It

The people of the four schools of thought [Shafi, Malik, Hanbal and Hanafi] have agreed that the washing of the head in the 'wudhu' is sufficient instead of wiping on it; however, they have differed as to whether it is an abominable act, or, not. The [School of] Hanafis and Hanbalis stated that it is abominable, arguing that it is

contrary to what Allah (S.w.T.) has commanded. The [School of] Shafi`is maintained: "It is not detestable but it is opposite to what is preferable to do." The Hanbalis said: "."The washing can replace the mash provided the hand passes on the head

As for the Imamis (Shi'i), they are agreed that it is not acceptable as it is contrary to what Allah (S.w.T.) commanded. It is [also] contrary to what is proven from the Prophet of God's (S) wiping his blessed forelock rather than washing it. Therefore, legislating [something] in worship is invalid in itself and makes other [things] invalid. From what has been previously stated, you know that the washing and wiping are two .separate performances, one cannot substitute the other

'The sequence ('tartib') in 'wudhu

The Imamis (Shi'i) have agreed in following the Imams of the pure family, the sequence of acts in the 'wudhu' in the manner which has been described in the noble .[verse [of Holy Quran

The Malikis, Hanafis, Sufyan al-Thawri and Dawud have ruled that it is not a condition, nor, is it obligatory as they have considered it to be recommended. If it is opposed, the ablution is not invalidated. They say that if the one performing 'wudhu' was to begin by washing his left foot and to end by washing his face, contrary to the verse in all his .acts, then his 'wudhu' is [still] correct

Our proofs are the book and the 'sunnah'. As for the book, the sequence is obvious from it even though the

conjunction [of the acts] as described in the verse is by [the Arabic letter] ‘waw’ not by then (‘thumma’), or, by ‘fa’. This is because ‘waw’ is used frequently as a conjunction of sequential things, it is not used in a metaphorical sense. This is proven by a study of the speech of Arabs, there is no doubt in it for anyone. Therefore the ‘Kufi’ grammarians have stated that it (‘waw’) is proper especially for [describing acts of] sequence and succession even though [the conjunctions] ‘thumma’ and ‘fa’ are .clearer than it

As for the ‘sunnah’, it is [according] to his saying in a famous authentic tradition: "The form of the ablution is the same whether it is for one of the five obligatory prayers, or, other obligatory, or, recommended acts." During his lifetime, the Prophet (S) would be in a pure state by performing the ritual ablution properly. Anytime it broke, he would ".renew the ‘wudhu’ properly. Sometimes he would say: "It is light upon light

The ‘ummah’ has agreed that he (S) never did ‘wudhu’ except that it was in sequence. If the sequence was not a condition, and an obligation in ‘wudhu’, he would have opposed it at least once, or, would have proclaimed that its opposite was [also] allowed; thus, explaining the ruling as was his practise. Since he did not oppose the sequence and did not announce that its opposite is allowed, we know that it is not .permissible

Moreover, the practical principles (asl al-`amali

established in ‘usul al-fiqh’ – subject which discusses the procedure for deriving - rules) require, with regards to doubtful acts, that we be cautious when we are not sure the conditions [attached to the act] are fulfilled. Moreover, the ritual impurity of a thing continues to exist as long as one is not sure that its opposite (removal of the .(’impurity) has not occurred (called the principle of ‘istishab

(Muwalat (continuance of acts

Our scholars, in following their Imams, state that the continuance of the acts of ‘wudhu’ is a condition for it being correct. The condition is that the previous part should not become dry, given the same time, place and health of the one performing .the ablution, before completing the following part

The [School of] Shafi'is and Hanafis have stated that the ‘muwalat’ is not prescribed; it is not a condition, or, obligatory; rather, it is a ‘sunnah’. For them, it is detestable to separate between the parts if there is no excuse. If there is an excuse, then it is not abominable. Similarly, it is not abominable if he forgets [the ‘muwalat’], or, the water prepared for his ‘wudhu’ runs out, and he goes to get more water to complete his .’‘wudhu

The [School of] Malikis have stated that the ‘muwalat’ is obligatory if one remembers .and is able to do so. It is dropped if one forgets, or, has an excuse

Our proof lies in the acts of the Prophet of God (S) for he would follow continuation in his

wudhu' just as he performed it in sequence. No laziness was seen of him in the acts' of 'wudhu' at any time, just as they did not see him not observing the sequence. If the 'muwalat' was not a condition, he would have omitted it even once, or, would have announced that it was permissible to omit it, explaining the shari'a ruling in accordance with his practise of legislating from Allah (S.w.T.), the most High. Since he .did not do this, we know that it is not allowed

Moreover, there is no difference in the correctness of the 'wudhu' if it meets these conditions. If it does not meet them, its correctness is a matter of dispute. [When there is no muwalat] the Imams of the 'Ahlul Bayt', peace be upon them, do not see it .as removing impurity, nor, does it allow one to pray, so be cautious in your religion

It is necessary to observe caution here because the practical principle (al-asl al-'amali) requires, with regards to doubtful acts, that we be cautious when we are not sure the conditions [attached to the act] are fulfilled. Moreover, the ritual impurity of a thing continues to exist ('istishab') as long as one is not sure that its opposite (removal .of the impurity) has not occurred, as we have discussed

'The Intention 'Niyah

The Imamis (Shi'i) have agreed, in following the Imams out of the two weighty things [Quran being the other], on the necessity of having an intention of the 'wudhu' and

ritual bath (ghusl) for them to be valid. For they are acts of worship which Allah (S.w.T.) has commanded: "They have not been commanded except that they worship Allah sincerely in religion." This is the madhab of al-Shafi`i, Malik, Ahmad, Dawud, Abu Thawr and many Imams of the masses.

The [School of] Hanafis said that the obligation to perform the 'wudhu', and ghusl by pure water is only for being in a physically pure state which is attained by the flow [of water] on the limbs whether it occurs with, or, without an intention. This purity may be attained accidentally, for example, by washing impure clothes because water, by its very nature, purifies [things].

They said if a man falls in water unintentionally, or, entered water for jest, or, to cool, or, to clean oneself, or, if he was imitating the acts of others, or, quenching his thirst and if the water covered the parts of his 'wudhu', it is proper for him to pray with this 'wudhu'. [This applies] even if he had entered the water as a non-believer and converted when he came out of it since being a Muslim is not a condition in the validity of the 'wudhu'.

Yes, they have seen intention to be necessary for the 'tayammum' to be correct because the earth does not, by its nature, purify things. [The fact that] it is a purifying agent is due to 'ta`abudi' (due to a pronouncement by the lawgiver) so it is essential to

have an intention to perform the ‘tayammum’ with it. Similar is the case of the ‘wudhu’ and ghusl with the nabidh (intoxicating beverage extracted from dates, raisins or barley, etc.) of dates, or, the leftovers of a donkey, or, mule because, like the earth, nabidh, or, the leftovers are purifying agents by ta'abudi (following a .(pronouncement by the lawgiver

In short, they have differentiated between the ‘wudhu’ and ‘ghusl’ which is performed with the ‘nabidh’ of dates, or, the left over of a donkey, or, a mule and that which is performed by pure water. They have deemed the first to be worship whose meaning is not rationally derived; so, like the ‘tayammum’, they imposed the intention on it. They have considered the second to be the means necessary for physical .cleanliness like purification from filth

I do not know from where they knew that the intention of the lawgiver in the ‘wudhu’ and ritual bath is merely the physical purification which, due to the nature of water, is attained by it's flowing [on the limbs]? Every Muslim man and woman knows that the ‘wudhu’ and ‘ghusl’ are to remove the effects of impurities so as to make the prayers, .and other acts for which the ‘wudhu’ is a condition for removing the impurities, valid

This would have not been perceived, nor, understood had it not been for the devotion to the holy commands issued by the one who is All-Wise [Allah S.W.T.]. The true facts and details are hidden

from human beings, ‘jinns’, angels and the whole of creation. Yes, we believe, in compliance to divine commands, that the ‘wudhu’ is to remove the affects of the minor impurity and that the ritual bath (ghusl) is for removing the major impurity, just as we believe in the obligation of the prayer, fasting, the zakat and pilgrimage as to .[how [to do it], how much and when [to perform

The attainment of physical cleanliness by the ‘wudhu’ and ‘ghusl’ many times does not make them mere acts for [being] clean; just like reviving those deserving zakat; giving it to them does not exclude [the act of giving] from [also] being an act of worship, it does not become a [mere] physical act of welfare. The same applies to the .‘khums’, expiations and all other alms and material forms of worship

If the aim of the ‘wudhu’ and ‘ghusl’ was mere physical cleanliness then they would not have been obligatory to perform when one is impure and then becomes completely clean and pure. This is against the ‘ijma' of the Muslims, and contrary to what has been established from the leaders of the Prophets (S) since he said: "Allah does not accept a prayer from impurity until [there is] a ‘wudhu’." And he (S) said: "God ".does not accept a prayer without purity, nor, any alms [acquired] dishonestly

The prerequisite of the intention here can be proven from the book, and the ‘sunnah’. This is in addition to what the practical

principle (al-asl al-'amali) requires, i.e., with regards to doubtful acts, we must be cautious when we are not sure the conditions [attached to the act] are fulfilled. Moreover, the principle of 'istishab' states that the impurity remains when one .performs the 'wudhu' without an intention

As for the book, the need for intention is derived by combining the verses from the :[chapters] of al-Ma'ida and al-Bayyina. The verse of the Ma'ida is

.(When you undertake the prayer then wash your faces" (۵:۶"

The minor premise is established in the form of an analogy, i.e., we have been :commanded to perform the 'wudhu' and 'ghusl'. As for the verse in al-Bayyina

You have been commanded to worship only Allah (S.w.T.) with sincerity in religion." "
((۹۸:۵

The major premise is established; i.e., everything that we are commanded to perform must have the sincere [intention] for Allah (S.w.T.). However, there are objections and .problems to this deduction

As for the 'sunnah', the 'wudhu' of the Prophet of God (S) requires the sequence and intention based on the assumption that the validity of actions depends on the correct performance [of acts]. The [School of] Hanafis say: "The assumption is that an act becomes perfect based on the intention," therefore there is no proof for what we claim. It can be said as a response to them: "The first assumption is better since the validity of an act is more necessary to get to the essence of an act than its perfect .[[performance

We, the Imamis

Shi'i), in whatever service we pay to Allah, follow the Imams of the pure family and) their rulings are conclusive proofs for us. [This is] proof in itself since they are the [other] half of the book of God, and receptacles of the 'sunnah' of the Prophet of God .'(S) and the ships of salvation of the 'ummah

One who boards them is safe and one who stays away drowns. They are the doors to reducing [burdens of sins]; one who enters them is granted safety. They are the .firmest thing upon which one lays hold, to which there is no separation

They are the custodians of the community from differences and its refuge from punishment; they are the springs of the Prophet of God through which his devoted friends and successors burst forth. They are the inheritors of his knowledge and wisdom; they are the best of people to him due to the legislation from Allah (S.w.T.), the most High, as we have proved in its place in our Azharite "Muraja'at" and other .publications

'The Ablution with 'Nabidh

The Imamis (Shi'i) agree, following the Imams from the family of Muhammad (S), on the prerequisite of purity of the water [used] for 'wudhu' and 'ghusl' whether a person is at home, or, on a journey. They also agree that if getting water is difficult, the 'mukallaf' is required to do the tayammum on pure earth. This is the view of [School .of] al-Shafi`i, Malik, Ahmad and others

Imam Abu Hanifa and Sufyan al-Thawri have

allowed the ‘wudhu’ and ‘ghusl’ with the ‘nabidh’ of dates when travelling, if there is unavailability of water. Al-Hasan al-Basri, Abu `Aliya and Rafi`i b. Mihran see it as an abominable act. `Ata' b. Abu Ribah says: "The ‘tayammum’ is more beloved to me than performing the ‘wudhu’ with milk, and yogurt." Al-Awza'i allowed the ‘wudhu’ .and ‘ghusl’ with all types of ‘nabidh’, in fact with all forms of pure liquid

The proof for the Imamis (Shi’i), and one who agrees with them on this question, in addition to the practical principles (al-usul al-'amaliyya), is the book of God, the Almighty and Glorious, and the ‘sunnah’ of His Prophet (S), and the consensus of the .’‘ummah

As for the book of God, it is His saying: "If you do not find water then [use] the pure earth and wipe on your faces and hands." [This is a proof as] He commanded the ‘tayammum’ when there is no water; He did not give any [other] alternative apart .from it (the water), and the pure earth

As for the ‘sunnah’, his [Prophet Muhammad] (S) saying "the pure earth is the ‘wudhu’ of a Muslim if he does not find water", is sufficient for us. Like the verse, the ‘hadith’ is .clear, and there is no other alternative

As for the consensus, the people of the ‘qibla’, all of them, are of one view. One who disagrees with it has rare views, goes against the ‘ijma' of the Muslims, the rare views are

not to be considered, it is like the rare view of one who says that the ‘wudhu’ with sea .water is not permitted, for example

Abu Hanifa, al-Thawri and those who agreed with them argued based on what was :reported from Ibn Mas'ud from two chains of transmission

On the authority of al-`Abbas b. al-Walid b. Sabih al-Khallal al-Dimashqi from (١ Marwan b. Muhammad al-Tatari al-Dimashqi from `Abd Allah b. Lahi'a from Qays b. al-Hajjaj from Hanash al-Sana'i from `Abd Allah b. `Abbas from Ibn Mas`ud who said: "The Prophet of God (P) said to him on the night of Jinn: `Do you have water?' He replied: "No, only nabidh in the water vessel (satiha)." The Prophet of God (S) said: "The good date and pure water, pour it on me." He said: `I poured it on him and he "'.performed the ‘wudhu’ with that

Muhammad b. Yazid b. Maja al-Qazwini reported this ‘hadith’ by this chain in the chapter of the ‘wudhu’ by al-nabidh in his ‘Sunan’. To the best of my knowledge, apart from him, none of the ‘Sunan’ writers have reported by this chain because of the ambuiguity enveloping it. Al-`Abbas b. al-Walid was not considered to be reliable, or, .trustworthy

The scholars of the "critiquing and authenticating" have not mentioned him. Abu Dawud was asked about him, as reported in Mizan al-I'tidal, and he said: "He was aware of the transmitters of traditions, and the traditions [yet] nothing is reported ".from him

You know that they

omitted him because of his weakness. As for his teacher, Marwan b. Muhammad al-Tatari, he was amongst the ‘Murji'ites’ (highest rank of legislator) gone astray. Al-`Uqayli mentioned him in his book [entitled] `Weak Reporters'. Ibn Hazm has clearly declared his weakness, you will know all of this in his biographical profile in the Mizan .al-I'tidal

Moreover, his teacher `Abd Allah b. Lahi'a is one of those who has been considered weak by their Imams in the critiquing and authentication. So, refer to their views concerning his status in the collection of the biographical profiles like Mizan al-I'tidal and others. You will find that he has been considered weak by Ibn Mu`in and Ibn Sa`id and others. Apart from the three men of this path there are other shortcomings .which we do not need to elucidate on

As for the second path of the chains of ‘hadith’, it ends with Abu Zayd, the client of `Amr b. Harith from `Abd Allah b. Mas`ud: "The Prophet of God (S) said to him on the night of Jinn: `Do you have [anything] pure?' He said: `No, except a little bit of ‘nabidh’ in the pot.' He said: `The pure date, and pure water, so he performed the ‘wudu."'.

Ibn Maja', al-Tirmidhi and Abu Dawud have reported this. The words "so he performed the wudu" are not in Abu Dawud's work. This ‘hadith’ is invalid by this chain also; just as it is invalid by the first chain. It is sufficient for you to

know that it is invalid [by the fact that] it revolves on Abu Zayd, the client of `Amr b. Harith, who is not known to the people of 'hadith', as al-Tirmidhi and others have .written

Al-Dhahabi has mentioned him in the section of 'kuna' (patronymics) in his Mizan and has stated that he is not known, that he reported from Ibn Mas`ud and that his traditions are not correct. Al-Bukhari has mentioned him to be amongst the weak ones. The text of his 'hadith' is: "The Prophet of God (S) performed the wudu with 'nabidh'." Al-Hakim said: "He is an unknown person. He does not have [any other] ".hadith, it is invalid

In short, the past scholars have considered this 'hadith' to be weak in both its chains. Moreover, it contradicts what has been reported by al-Tirmidhi in his Sahih and by Abu Dawud in his chapter of the 'wudhu' in his 'Sunan'. All the Imams have verified it from `Alqama that he asked Ibn Mas`ud: "Who amongst you was with the Prophet of ".God (S) on the night of Jinn?" He said: "None of us was with him

Assuming it (the tradition) is correct and it did not contradict it, the verse on tayammum would abrogate it since the night of Jinn occurred in Mecca before the .emigration. The verse on tayammum is Medinese without any dispute

It is permissible to interpret the 'hadith', assuming it is correct, that with the water, there was a little dry date in

.the pot. The water did not lose its purity, nor, did it lose its attribute [of being] water

Al-Awza`i and al-Asam and those who have agreed with them have argued that the 'wudhu' and 'ghusl' can be performed with all pure liquids and that Allah, the Almighty, only ordered the washing and wiping. Just as they can be performed by pure water .they can [also] be done by other pure liquids

The answer: Allah, the Almighty and Glorious, has made the 'tayammum' compulsory when water is not available. Allowing the 'wudhu' without it (water) would invalidate it (the 'wudhu'). This is what makes the washing commanded in the verse conditional .upon [there being] water as is obvious, praise be to Allah for the understanding

Perhaps the [School of] Hanafis allowed the wudu with yogurt mixed with water, as is reported from them, by relying on what al-Awza`i and al-Asam Hatim b. Unwan al-.Balkhi relied upon

This is what Allah has made easy for His slave and the son of His slaves, `Abd al-Husayn b. al-Sharif Yusuf b. al-Jawad b. Isma`il b. Muhammad b. Muhammad b. Sharaf al-Din Ibrahim b. Zayn al-`Abidin b. `Ali Nur al-Din b. Nur al-Din `Ali b. al-Husayn Al Abu'l-Hasan al-Musawi al-`Amili, all praises be to Allah , the Lord of the .Universe

About center

In the name of Allah

هَلْيَسْتَوِيالَّذِينَيَعْلَمُونَوَالَّذِينَلَايَعْلَمُونَ

?Are those who know equal to those who do not know

al-Zumar: ۹

:Introduction

Ghaemiyeh Computer Research Institute of Isfahan, from ۲۰۰۷, under the authority of Ayatollah Haj SayyedHasanFaqihImami (God blesses his soul), by sincere and daily efforts of university and seminary elites and sophisticated groups began its activities .in religious, cultural and scientific fields

:Manifesto

Ghaemiyeh Computer Research Institute of Isfahan in order to facilitate and accelerate the accessibility of researchers to the books and tools of research, in the field of Islamic science, and regarding the multiplicity and dispersion of active centers in this field

and numerous and inaccessible sources by a mere scientific intention and far from any kind of social, political, tribal and personal prejudices and currents, based on performing a project in the shape of (management of produced and published works from all Shia centers) tries to provide a rich and free collection of books and research papers for the experts, and helpful contents and discussions for the educated generation and all classes of people interested in reading, with various formats in the .cyberspace

:Our Goals are

(propagating the culture and teachings of Thaqalayn (Quran and Ahlulbayt p.b.u.t-

encouraging the populace particularly the youth in investigating the religious issues-

replacing useful contents with useless ones in the cellphones, tablets and computers-

providing services for seminary and university researchers-

spreading culture study in the publich-

paving the way for the publications and authors to digitize their works-

:Policies

acting according to the legal licenses-

relationship with similar centers-

avoiding parallel working-

merely presenting scientific contents-

mentioning the sources-

.It’s obvious that all the responsibilities are due to the author

:Other activities of the institute

Publication of books, booklets and other editions-

Holding book reading competitions-

Producing virtual, three dimensional exhibitions, panoramas of religious and tourism- places

.Producing animations, computer games and etc-

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Fabricatingdramatic and speech works-

Launching the system of answering religious, ethical and doctrinal questions-

Designing systems of accounting, media and mobile, automatic and handy systems,- web kiosks

Holding virtual educational courses for the public-

Holding virtual teacher-training courses-

Producing thousands of research software in three languages (Persian, Arabic and- English) which can be performed in computers, tablets and cellphones and available and downloadable with eight international formats: JAVA, ANDROID, EPUB, CHM, PDF, HTML, CHM, GHB on the website

Also producing four markets named “Ghaemiyeh Book Market” with Android, IOS,- WINDOWS PHONE and WINDOWS editions

:Appreciation

We would appreciate the centers, institutes, publications, authors and all honorable .friends who contributed their help and data to us to reach the holy goal we follow

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